Constructing a Popular Public Image:
Press Representation of the Barrister in Nineteenth Century England

Submitted by Craig John Newbery-Jones to the University of Exeter as a thesis for the degree of Doctor of Philosophy in Law in November 2017.

I certify that all material in this thesis which is not my own work has been identified and that no material has previously been submitted and approved for the award of a degree by this or any other University.

(Signature)……..

Abstract

Despite the vast research that focuses on the representation of the law, the legal system and lawyers in contemporary popular culture, very little attention has been paid to portrayal of the barrister in the influential press of the nineteenth century. Moreover, numerous scholars have contended that the attention of cultural texts on legal subject matter is a distinctly twentieth century affair. The aim of this thesis is to critically examine the public image of the bar in the popular press of the nineteenth century. This thesis will argue that the press of the nineteenth century created the first recognisable source of mass popular culture, and that the barrister was a central figure within this influential textual and visual media. While histories of the profession have frequently referred to the poor public reputation that the bar held, a substantial analysis of their representation in the most prevalent cultural text of the nineteenth century has not been undertaken. To contribute to current scholarly understandings of the profession, its history and its lasting public image, this thesis will explore the nuanced nature of the public image of bar that was transmitted to the Victorian public and will argue the various reasons why the profession was represented in such a way. Most notably, this thesis will investigate public perceptions of the bar's traditions, professional activities, education, and regulation.

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Table of Abbreviations

Law Reports

Source for Legal Abbreviations: *Cardiff Index of Legal Abbreviations (http://www.legalabbrevs.cardiff.ac.uk/)*

C.C.C.	*Central Criminal Court*
ER	*English Reports (Volume is specified)*
HC Civ	*High Court Civil Division*
LR QB	*Law Reports, Queen's Bench, 1865-1874*
R. R.	*Revised Reports*

Other Abbreviations

Directories

The Waterloo Directory	*The Waterloo Directory of English Newspapers and Periodicals 1800-1900*

Inns of Court Archives

GIA	*Gray's Inn Archive*
ITA	*Inner Temple Archives*
LIA	*Lincoln's Inn Archive*
MIA	*Middle Temple Archive*

Parliamentary Materials

HCPP	*House of Commons Parliamentary Papers*
Parl. Deb.	*Parliamentary Debates*

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Introduction

The Purpose and Scope of the Research

> There are various factors of public opinion, but the one power beside which all others are of little account...is the newspaper press, the growth of which within the last 50 years is one of the wonders of the epoch.
>
> Dr Macaulay, *Victoria R.I. Her Life and Reign* [1]

> Yet, as culture wars rage, the technology of mass culture rolls on. And the visual mass media, particularly television, have their own models of truth and reason, law and justice, to purvey...Law stories have consistently made up a significant portion of the popular culture.
>
> RK Sherwin, *When Law Goes Pop* [2]

When writing in 1887, Dr Macaulay could not have imagined the diversity of cultural texts available to the public in twenty-first century society, but the influence that such modern cultural texts have on the communities who engage with them would not have been beyond his contemplation. It has often been theorised that the press has always been able to both reflect and lead public opinion, and if law stories make up a significant portion of popular culture, cultural texts are an important source in examining the public image of law and lawyers. This thesis will critically examine the representation of the bar in the popular press of the nineteenth century in order to further academic understandings of the bar's history and begin to construct a public image of the Victorian bar.

The press of the nineteenth century is the principal and most far-reaching cultural text through which the depiction of the bar can be examined and a public image ascertained. When combined with the theory that the press both leads and reflects public opinion, it is reasonable to assert that the nineteenth century press was the most important source in constructing public opinion of the bar. Without

[1] Dr Macaulay, *Victoria R.I. Her Life and Reign,* (William Clowes and Sons 1887) 261–262
[2] RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002) 17

being able to report directly upon the opinions of historical communities regarding the bar, this is an important method of inferring, to some degree, the opinions held by society in this period. This thesis does not intend to explore all aspects of public opinion of the profession in the nineteenth century, but given the centrality of the press in the culture of this epoch, it is a key piece of the jigsaw that makes up public opinion of the bar during that period.

In the framework of this research, cultural texts are defined as the various forms of media through which we experience culture, specifically in this period newspapers, periodicals and, to a lesser extent, literature. More generally, cultural texts can also include film, television programmes, art, photography, theatrical performances, music, advertising, internet sources, and any other object, performance, or particular behaviour that can reveal cultural denotations.

While the scope of this study is predominantly the barrister, the phrase legal professional or lawyer are generally used when referring to a legal practitioner in modern legal culture.[3] These terms will be used in order to differentiate between the analysis of the barrister in the nineteenth century and the contemporary term 'lawyer' used to describe all manner of legal professionals in modern scholarship.[4] This is particularly true within the discipline of law and popular culture that generally uses the phrase lawyer as a term of art for all legal

[3] A definition of legal culture can also be found in LM Friedman, 'Law, Lawyers, and Popular Culture' (1989) 98(8) *Yale L.J.* 1579. He writes, "By *legal culture* I mean nothing more than the "ideas, attitudes, values, and opinions about law held by people in society." Everyone in society has ideas and attitudes, and about a range of subjects-education, crime, the economic system, gender relations, religion. Legal culture refers to those ideas and attitudes that are specifically legal in content-ideas about courts, justice, the police, the supreme court, lawyers, and so on." This will be discussed in more detail later in chapter one.

[4] This is largely due to the trans-jurisdictional nature of cultural texts in the twenty-first century. See generally, RK Sherwin, *When Law Goes Pop* (University of Chicago Press, 2002) and S Machura and S Ulbrich, 'Law in Film: Globalizing the Courtroom Drama' (2001) 28 *Journal of Law and Society* 117.

professionals. This is due to the globalised nature of popular culture and the Americanisation of legal culture due to the prevalence of cultural exports.[5]

The widespread fascination[6] that the public holds with the law and the legal process has often placed the lawyer at the heart of diverse cultural texts and is not unique to the twentieth and twenty-first centuries. The representation of the legal process and the lawyer has a long and established tradition. From the plays of Plautus[7] and satires of Juvenal[8], to the works of Chaucer,[9] Shakespeare,[10] and Gay,[11] the legal process and lawyers have been important aspects of storytelling across various cultural texts. It can certainly be argued that artists and writers have always had a fascination with legal subject matter,[12] but so have the public audiences that consume their work.[13]

This research will examine the characteristics of nineteenth century newspapers and periodicals to argue that they are valuable cultural texts and can be viewed as sources of mass popular culture. Within this work, the definition of popular culture is two-fold. In the first instance, it refers to the norms, values, and opinions held by the ordinary public, by non-intellectuals, as well as the high culture of the intelligentsia. Secondly, popular culture is used to describe mass cultural texts that were consumed by the public as a whole, rather than the

[5] *Ibid*
[6] See generally, R Crone, *Violent Victorians,* (Manchester University Press 2012)
[7] See generally, Plautus, *Aulularia,* (Liverpool University Press 2016)
[8] See generally, Juvenal and Persius*: Satires,* (HTML eBook, Fordham University Press) <http://www.fordham.edu/halsall/ancient/juvenalpersius-intro.asp> accessed 8 April 2014
[9] G Chaucer, *The Canterbury Tales,* (Penguin Classics 2003) 122-157
[10] W Shakespeare, 'The Comical History of the Merchant of Venice, or Otherwise Called the Jew of Venice' in S Wells and G Taylor (eds), *The Complete Works of William Shakespeare,* (OUP 2005) 453-481
[11] See generally, J Gay, *The Beggar's Opera and Polly,* (OUP 2013)
[12] D Sugarman and WW Pue, 'Introduction' in WW Pue and D Sugarman (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003) 2
[13] MDA Freeman, *Law and Popular Culture,* (OUP 2005) 1

intellectual-elite. [14] A more detailed definition of popular culture will be explored in chapter one.

Scholars have extensively examined the relationship between law and popular culture, and particular attention has been given to the manner in which popular sources have represented the lawyer.[15] One of the aims of law in popular culture research has been to analyse and explore how cultural texts depict the profession, its ethics, and its legal practices, and how these depictions have shaped public perceptions of the barrister.[16] Research has been conducted around the depiction of crime and punishment, law, and the legal process in cultural texts of the nineteenth century,[17] including the mainstream and popular press of the period;[18] yet, no substantial attention has been paid to the manner in which *the barrister* has been represented in the press of the nineteenth century. The originality of this thesis lies within addressing this lacuna. This thesis will

[14] The scholar Lawrence Friedman outlines a similar definition in LM Friedman, 'Law, Lawyers, and Popular Culture' (1989) 98(8) *Yale L.J.* 1579. However, this thesis has also developed its definition from the works of cultural scholars in chapter one.

[15] For cinema and film see MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533; MR Asimow, **'**When Lawyers were Heroes' (1995–1996) 30 *USF L. Rev*. 1131; FM Nevins, 'When Celluloid Lawyers Started to Speak: Exploring Juriscinema's First Golden Age' in MDA Freeman, *Law and Popular Culture* (OUP 2005) 109**.** For television see J Denvir, 'Law, Lawyers, Film & Television' (2000) 24 *Legal Stud F.* 279; S Machura and S Ulbrich, 'Law in Film: Globalizing the Courtroom Drama' (2001) 28 *Journal of Law and Society* 117. For literature see C Menkel-Meadow, 'The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft' (1999–2000) 31(1) *McGeorge L. Rev.* 1; RA Posner, *Law and Literature,* (3rd edn, Harvard UP, 2009) and for Science Fiction see M Travis, 'Making Space: Law and Science Fiction' (2011) 23(2) *Law and Literature* 241 and M Travis and K Tranter, 'Interrogating Absence: The Lawyer in Science Fiction' (2014) 21(1) *The International Journal of the Legal Profession* 23

[16] LM Friedman, 'Law, Lawyers, and Popular Culture' (1989) 98(8) *The Yale Law Journal* 1579

[17] See generally, R Crone, *Violent Victorians,* (Manchester University Press 2012); J Rowbotham and K Stevenson, (eds) *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (Ohio State University Press 2005); J Rowbotham and K Stevenson, (eds) *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels,* (Ashgate 2003); R Sindall, *Street Violence in the Nineteenth century: Media Panic or Real Danger?* (Leicester University Press 1990)

[18] See generally, VC Gatrell, *The Hanging Tree,* (OUP 1996); B Karloff, *Murder and Moral Decay in Victorian Popular Literature,* (UMI Research Press 1986); RD Altick, *The English Common Reader: A Social History of the Mass Reading Public, 1800–1900,* (University of Chicago Press 1957); C Elkins, 'The Voice of the Poor: The Broadside as a Medium of Popular Culture and Dissent in Victorian England' (1980) 14 *Journal of Popular Culture* 262; HHJ Dyos, and M Wolff, (eds) *The Victorian City: Images and Realities,* vol. 1 (Routledge 1999)

explore the representation of the bar and barristers in these important cultural texts, will establish how they constructed a public image and ascertain what image was created. It is this construction of the public image of the barrister in the nineteenth century that is the purpose and originality of this thesis.

Furthermore, the study of the public image of the barrister in the nineteenth century press is fundamental in order to achieve a more complete understanding of the profession's history, and to deepen our reflections upon the modern public image of legal professionals. This is important as contemporary legal professionals are consistently, (if not entirely), represented within cultural texts in a negative manner.[19] Due to its persuasive ability to influence public opinion, a more robust understanding of the development of the role of cultural texts in this context would be beneficial to examining the representation of the lawyer in contemporary popular culture. By exploring the nineteenth century foundations of contemporary themes and motifs associated with the barrister, this work provides a new source through which to examine the cultural development of the lawyer's depiction in modern popular culture. While this thesis will not examine these modern sources, it will refer to this work as a foundation for future research and contribution to the field in the conclusion.

The following sections will outline the principal research aim for this thesis and the relevant research questions being asked to achieve this aim. A roadmap

[19] See generally, MR Asimow, 'Bad Lawyers in the Movies' 2000) 24 *Nova L. Rev.* 533; MR Asimow, **'**When Lawyers were Heroes,' (1995–1996) 30 *USF L. Rev*. 1131; C Menkel-Meadow, 'The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft' (1999–2000) 31(1) *McGeorge L. Rev.* 1; J Denvir, 'Law, Lawyers, Film & Television' (2000) 24 *Legal Stud F.* 279 and FM Nevins, 'When Celluloid Lawyers Started to Speak: Exploring Juriscinema's First Golden Age' in MDA Freeman, *Law and Popular Culture,* (OUP 2005) 109

of the chapters in this thesis will follow, and finally the methodology for this research will be explained.

Research Aim

The aim of this thesis is to critically examine the public image of the bar in the popular press of the nineteenth century, in order to further academic understandings of the bar's history.

Research Questions

In order to achieve the above aim, this thesis has four main research questions:

1) Did the press culture of the nineteenth century create a recognisable source of mass popular culture and was the barrister represented?

2) If so, how was the barrister represented in the press and what was the nature of the image(s) transmitted by the textual and visual press of the nineteenth century?

3) Did the representation of the barrister in the press construct a public image and develop public perceptions of the barrister?

4) What implications can these findings have on current research into the history and the representation of the lawyer in contemporary popular culture?

Outline of Chapters

Chapter one serves as an introduction to the key historical and theoretical context of this research. This aims to serve as the backdrop for the significance and originality of this thesis, to define in more detail key terms used within this work, and to demonstrate specific approaches to answering the aforementioned research questions.

Chapter two concerns the textual representation of the barrister in the newspaper press of the nineteenth century. The first part of this chapter will

assess the degree to which the press became a source of mass popular culture and argue that the press of the period popularised the barrister through substantial reporting of the legal process. The second part of the chapter explores the specific representation of the barrister in the mainstream and satirical press in order to ascertain the image presented to the public.

Chapter three examines the visual representation of the barrister in the print press of the nineteenth century. The first half of this chapter will examine how the illustrated press emerged during the period, whether it popularised the barrister, and assess the popularisation of the visual image of the barrister. The second half of this chapter will examine the specific representation of the barrister in the illustrated press of period.

Chapters four and five consider the press reporting of two specific areas of the barrister's affairs in the nineteenth century, namely, the reporting of discussions around the bar's education and regulation. These areas of the barrister's professional existence were reported extensively in the press during the period and, alongside textual and visual representations in the press, act as a valuable source in examining the public image of the bar in the nineteenth century. Chapter four begins by exploring how barristers were educated in the nineteenth century, before examining the image of the barrister portrayed through press reporting of these educative issues. Chapter five will, for the first time in existing scholarship, outline specifically how the Inns of Court regulated the barrister in the nineteenth century. Then, this chapter will explore how such regulatory issues were reported in the press, and the subsequent images transmitted to the public.

This thesis draws together chapters one through five to present final conclusions upon the research aim and questions, before demonstrating some reflections that look forward to potential future themes of research.

Methodology

Method

This work is positioned at the intersection of the cultural history of the legal profession [20] and contemporary studies in legal culture. [21] As a result, its methodology draws upon approaches from these subjects in order to examine the representation of the barrister and the construction of the public image of the profession. To augment these specific methods, this thesis will also draw upon methods found in other cultural disciplines to create a more complete approach towards analysing the depiction of the barrister in these cultural texts.

Cultural history and cultural theory have previously drawn upon approaches and methodologies from the humanities and the social sciences to construct new methods of analysing different cultural texts. This thesis embraces this spirit. Peter Burke[22] has, in his seminal work on *Popular Culture in Early Modern Europe,*[23] attempted to define cultural historians as being positioned "not in terms of a particular area or field such as art, literature and music, but rather of a distinctive concern for values and symbols, wherever these are to be found, in

[20] For example, D Lemmings, *Professors of the Law. Barristers and English Legal Culture in the Eighteenth Century,* (OUP 2000) and more notably, WW Pue and D Sugarman (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)

[21] See the seminal works, MDA Freeman, *Law and Popular Culture,* (OUP 2005) and LM Friedman, 'Law, Lawyers, and Popular Culture' (1989) 98(8) *The Yale Law Journal* 1579

[22] Professor Peter Burke is arguably one of the key advocates of the discipline and instrumental to its success in the last three decades. He was the first professor of cultural history at the University of Cambridge and has published extensively on the cultural and social history of Early Modern Europe. His work entitled *Varieties of Cultural History,* (Cornell University Press 1997) and his introductory text *What is Cultural History?* (2nd edn, Wiley 2008) are considered an important contribution to the popularisation of cultural history.

[23] See generally, P Burke, *Popular Culture in Early Modern Europe,* (3rd edn, Ashgate 2009)

the everyday life of ordinary people as well as in special performances for elites."[24] Cultural history cannot simply be defined as one discipline, as by its very nature it draws from the branches of "anthropology, art history, the history of literature, the history of philosophy and the history of science. In this way, cultural history has provided a meeting ground for a variety of interests and methodologies."[25] Cultural history exists "at the heart of the coming together of a variety of traditional disciplines that for too long lived separate existences."[26] It is from this perspective which this thesis draws its mode of analysis, and interconnects a traditional historiographical approach with understandings of cultural transmission within society.

While this thesis uses a historiographical method for the collection of archival and digital database research of primary press sources, it employs a predominantly cultural theory approach to the analysis of these sources. For example, this methodology draws upon content analysis[27] to trace themes that exist in the primary press sources analysed.

Content analysis (sometimes referred to as textual analysis) is a social science methodology that can be deployed to analyse media sources and sources in communication.[28] This methodology is beneficial for this thesis since content analysis allows a "systematic reading of a body of texts, images and symbolic matter, not necessarily from an author's or user's perspective".[29] Content analysis has a long tradition in sociological research (Weber was an

[24] *Ibid,* 18-19
[25] M Calaresu, F de Vivo and J-P Rubies, 'Introduction' in M Calaresu, F de Vivo and J-P Rubies (eds), *Exploring Cultural History: Essays in Honour of Peter Burke,* (Ashgate 2010) 1
[26] *Ibid*
[27] See generally, K Krippendorff, *Content Analysis: An Introduction to its Methodology,* (SAGE Publications 2012)
[28] *Ibid,* xvii
[29] *Ibid,* 3

advocate of content analysis for the analysis of mass media).[30] Krippendorf outlines the value of content analysis in exploring the newspaper, demonstrating how it has been an important approach to thematic textual analysis in the history and development of the press.[31]

In order to achieve this, this thesis has had to combine content analysis with semiotics and narratology in order to look at the specific meanings of image created by textual representations of the bar. Furthermore, the examination of the visual image of the barrister in the illustrated press applies approaches from the study of visual culture to 'read' the image. These theoretical approaches are explored in more detail in chapter one.

Therefore, this thesis draws upon traditional historiographical methodologies found in legal history, but considers the more cultural and social impact of such sources in order to ascertain, examine and evaluate historical legal cultures. This thesis will examine the representation of the barrister through these sources, communal interaction with these cultural texts, and the values subsequently transmitted and assimilated by social groups in order to explain more substantial press representations of barristers in the nineteenth century.

This thesis will examine the juncture between the history of the legal profession, its relationship with sources of popular culture, and its subsequent influence in the construction of the bar's public image. Much research has been conducted around the development of the legal profession throughout English legal history, but legal history traditionally has a nationalistic, social, political,

[30] *Ibid,* 4
[31] *Ibid,* 5–6

economic and jurisprudential approach to the analysis of the law, its history, and its interaction with social groups.[32]

It is envisaged that this work will contribute to existing scholarship by beginning to develop an understanding of the barrister's public image in the nineteenth century, and by adding an important interdisciplinary perspective to the socio-legal history of the bar. Whilst there are more general legal histories of the nineteenth century[33] and numerous works that focus specifically on the legal professions during the period, [34] little attention has been paid to the representation of the barrister in the press, and no other scholars have undertaken specific research into the public image of the bar during this period. This research continues the tradition of histories of the legal profession, but with a greater exploitation of popular sources and a novel approach that goes beyond doctrinal legal history to examining the popular public image of the bar. Furthermore, this work adds to the existing body of literature regarding the history

[32] This is in no way limited to legal history and the more general fields of historical research have also been predominated by a focus on traditional subjects and methodologies. "…this simply reflects an expansion in the range of themes and sources that interest historians. The traditional focus on political history and, to a lesser extent, economic history, religious history, and the history of ideas, has been overtaken by an interest in new themes and new sources, or by the re-evaluation of themes and sources traditionally considered quite marginal. These range from the history of books and reading, patronage, collecting, food, consumption and gifts, to the history of sexuality, criminality, travel, medicine and botany, for example. This thematic expansion is evident both in academic scholarship and in the genres of popular history. However, the central place that cultural history now occupies is more than just a matter of giving priority to such formerly obscure topics. Cultural history is flourishing as an added dimension to the way we understand the traditional fields of political, economic and even military history. More generally, it permeates much of what we now understand as social history." in M Calaresu, F de Vivo and J-P Rubies, 'Introduction' in M Calaresu, F de Vivo and J-P Rubies, (ed) *Exploring Cultural History: Essays in Honour of Peter Burke,* (Ashgate 2010) 1

[33] See generally, A Briggs, *The Age of Improvement*, (Longman 1965); C Williams, (ed) *A Companion to Nineteenth Century Britain,* (Blackwell 2004); GM Trevelyan, *Illustrated English Social History: 4,* (Pelican 1972); EA Wigley, *Continuity, Chance and Change: The Character of the Industrial Revolution in England,* (CUP 1990); P Mathias, *The First Industrial Nation,* (3rd edn, Routledge 2001)

[34] See generally, B Abel-Smith and R Stevens, *Lawyers and the Courts,* (Heinemann 1967); CW Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Profession in Early Modern England,* (CUP 1986); D Lemmings, *Professors of the Law. Barristers and English Legal Culture in the Eighteenth Century,* (OUP 2000) and WR Prest, *The Rise of the Barristers: A Social History of the English Bar 1590–1640,* (OUP 1986)

of the nineteenth century press by demonstrating how the press continued to emerge as a popular cultural text.

Sources

This thesis examines three key types of press sources in which the barrister featured in the nineteenth century: newspapers, news periodicals and popular periodicals. These were the principal and most commonly consumed press sources in the period. Newspapers were also the most common means by which the public remained abrest of news. News periodicals have been chosen as they provided a digested perspective on the week's news. They also provided the public with a forum for interaction, much like the newspapers, but which often included more opinion pieces. News periodicals are also an important source as a more diverse audience read them; due to the weekly nature of their publication, those who could not afford a daily newspaper or those without the time to read a daily paper could still buy them. Popular periodicals often acted as illustrated companions to daily newspapers but with a more comical or light-hearted examination of the week's news. Popular periodicals were also examinatory in nature, not only satirising current affairs but also covering a variety of arts (such as literature, theatre and fine art).

The process of digitisation has provided legal historians with new methodological challenges when analysing these digital sources.[35] Many newspapers and press resources were published in the nineteenth century, and access to those sources had improved in the last decade with the digitisation of the British Library's press and periodical collections. However, much in the same

[35] See generally, J Mussell, *The Nineteenth Century Press in the Digital Age,* (Palgrave Macmillan 2012)

way that Victorian England underwent a press revolution, historical scholarship is undergoing its own technological revolution and with these changes come methodological problems. As we continue further into the digital age and digitalised archives become more widespread, primary sources will be accessible remotely and a wider body of material will be available to the legal historian. This is a clear benefit to the state of scholarship and to researchers, but the sheer proliferation of such sources means that new questions in methodology must be addressed and new strategies must be developed. Specifically, how best to define parameters for researching large bodies of searchable, digital sources such as the British Library Nineteenth Century Newspapers Online and the British Library Nineteenth Century Periodicals Online.

Many nineteenth century newspapers and periodicals are being scanned into online archives and databases, usually with full-advanced-search capabilities. However, scholars may encounter issues during their research if they are not very precise in their search terms because they will return a high number of sources, making their investigation more challenging. This thesis has addressed this issue by carefully selecting sources for ease of examination, whilst still ensuring the research was comprehensive enough to establish the public image of the bar in the period. This will now be explained fully.

All of the press publications examined in this work were selected for their differing type, political ideologies, opposing class audiences, circulation numbers and the longevity of their publication. It was envisaged that these would provide varying representations of the bar from different political standpoints and would have been received by a different class readership. The sources had to be sufficiently wide-ranging to signify the image represented to the public at large

and being diverse enough to encompass the complicated political, economic, cultural, social, moral and legal landscape of nineteenth century England.

Every press source had some sense of political affiliation and sympathy. Some papers and periodicals were more respectful of differences, whilst others were created to discredit, even libel, political opposition.[36] These political affiliations were taken into account when selecting sources in order to examine a prudently considered cross-section of nineteenth century society. Press sources were selected that reflect the major political ideologies in nineteenth century England, notably the Conservative 'Tories', the 'Whig' Liberals and the Radical Liberals. This was to ensure that this research analysed a sufficient cross-section of society to provide a valid and effective sample for examining the public image of the bar in the period. This thesis does not seek to substantially examine the nuanced political representation of the bar via the press, but rather uses political ideology to ensure that the press sources selected were sufficiently representative.

Another issue that had to be considered when selecting press sources for examination was continuity. The large number of press sources produced in the nineteenth century created a great deal of competition for subscribers, purchasers and readers, so many press sources were created but ceased publication in a very short period of time. This raised methodological issues regarding coverage of the entire nineteenth century. This thesis selected various press publications that spanned the whole period in order to provide a representative sample of the public image of the bar.

[36] See *The Age* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (Online Edition)

Furthermore, the distribution numbers and the social class of the publication's readership were also considered to ensure that the press sources examined reached a mass audience to provide a representative cross-section of society. The following sources were consequently selected and overview with key information can be viewed in appendix 6.

Newspapers

Within the newspaper class, the first chosen was *The Time*s, published throughout the whole period and considered the great recorder of the Victorian era. *The Times* was centre-right in its political ideology[37] and had a largely middle-upper class readership.[38] It clearly led the newspaper market in the early nineteenth century (1823) with a daily sale of 10,000 copies.[39] However, in the latter half of the period, 1842–1900, *Lloyd's Weekly Newspaper* (later known as *Lloyd's Illustrated Newspaper)* overtook *The Times* with a readership of 750,000 copies in 1882.[40] Compared to *The Times, Lloyd's* had a predominantly working class readership[41] and it was one of the leading papers in the market for mass-produced, mass-marketed, weekly newspapers.[42] *Lloyd's Weekly Newspaper* had a relatively Liberal political inclination and makes many references in the opening address of its first issue to the Liberal readership and Liberal public.[43]

[37] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) xix
[38] *Ibid*
[39] A King and J Plunkett, *Victorian Print Media: A Reader,* (OUP 2005) 339
[40] *Ibid*
[41] See *Lloyd's Weekly Newspaper* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (Online Edition)
[42] A King and J Plunkett, *Victorian Print Media A Reader,* (OUP 2005) 339
[43] *Lloyd's Weekly Newspaper,* 27 Nov 1842

News Periodicals

Within the news periodical class, the first chosen was *John Bull*, from 1837 to 1892. This periodical was Conservative and was established to support the King during his troubles with Queen Caroline (Caroline of Brunswick). The periodical even considered itself anti-Caroline[44] and provided a means to attack her Liberal and Whig support and in support of King George IV. This is clear in the paper's motto: "For God, the King and the People!" The subtitle "For God, the Sovereign and the People" was added in June 1837 with the ascension of Queen Victoria. The next periodical selected was *The Age*, 1825–1846. *The Age* was also a Tory paper, ready to libel anyone with Liberal leanings[45] and "notorious for its scurrilous attacks".[46] It was a more severe periodical than *John Bull* and much more scathing in its attacks on the Liberals, with many cases of libel brought against it.[47]

The mainstream Liberal periodical chosen was the *Pall Mall Gazette,* 1865–1900, a supporter of the Liberal party. It was intended to be read by gentlemen of the middle and upper classes and was written "by gentlemen for gentlemen".[48] It is notable that in the last twenty years of the nineteenth century editorship of the paper switched hands and the underlying ideology began to support Conservative policy.

[44] See *John Bull* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (Online Edition)
[45] J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 279
[46] *Ibid,* 285
[47] *Ibid*
[48] WM Thackeray, *The History of Pendennis,* (Project Gutenberg) (http://www.guttenberg.org/files/7265/7265-h/7262-h.htm), chapter 33 'Which is Passed in the Neighbourhood of Ludgate Hill'

The radical Liberal news periodical selected was *The Satirist, or Censor of the Times,* 1831–1849; a Whig paper intended to defame the Tories.[49] Its motto was "Satire is my Weapon" and, much like its direct competitor and rival *The Age,* it was infamous for its attacks on politicians and was also the subject of many libel suits.[50]

Popular Periodicals

Popular periodicals were also selected to reflect the political spectrum and for their circulation figures. The first popular periodical selected was *Judy, or the London Serio-Comic*, 1867–1895. *Judy* was Conservative in its political ideology and developed in opposition to the Liberal *Punch*. It was also described as the "Conservative counterpart to the Liberal comic *Fun".*[51] *Judy* used a greater number of illustrations in later editions, demonstrating the growth in importance of the image in press publications. *Fun*, 1866–1900, and *Punch, or the London Charivari*, 1841–1900, were both Liberal in their political ideology but were direct competitors. *Punch* was considered to have "Ultraliberal principles but sought its market in a generally Conservative middle class".[52] *Fun* was considered to be so similar to *Punch* it was often referred to as the "poor man's *Punch".*[53] These periodicals have been chosen in order to cover a cross-section of society and for their differing content.

[49] J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 279
[50] See *The Age* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (Online Edition)
[51] See *Judy* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (Online Edition)
[52] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) xix
[53] See *Fun* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (Online Edition)

Since *Fun* was considered the poor man's *Punch,* this thesis explores both publications in order to reveal the public image of the bar across the social classes. Both periodicals also attempted to cover the same subject matter, but *Fun* was considered to surpass *Punch* in its treatment of literature, fine arts and the theatre.[54] Nonetheless, *Punch* was considered the great commentator on many aspects of nineteenth century life and has been used extensively by scholars as an illustration tool or as a source for analysing cultural opinion within a chosen subject. *Punch* was considered to serve "as a weekly illustrated comic supplement to *The Times,* reflecting as in a distorting mirror a selection of the week's news and jauntily editorialising on its significance".[55] The esteem in which these publications have been held demonstrates their importance as a press source for the period and their importance for analysing the public image of the barrister.

At a glance, it becomes clear that only limited sources (specifically in this sample, *The Times*) extend across the whole of the nineteenth century. It will be discussed in this thesis how the press evolved and expanded during the period, but this chronology needs to be borne in mind as to why there are only a limited number of sources analysed from the first 25 years of the century. While this thesis could have selected sources purely from the Victorian age, it has actually sought to analyse the whole of the nineteenth century in order to examine changes in reportage and the representation of the bar through the whole period.

[54] *Ibid*
[55] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) 186

Scope of the Bar's Activities

To refine the scope of this thesis further, three distinct areas of the bar's professional existence were examined because they were the main activities reported in the press. Therefore, they exemplify the press representation of the barrister in the nineteenth century and the subsequent public image created. These areas are: the work of the barrister in court; the education of the barrister and the regulation of the barrister.. All three distinct areas were reported in the press and often discussed in commentary and opinions.

Barristers predominantly featured in the press in their roles as advocates in court. Chapter two of this thesis focuses accordingly on a number of *causes célèbres*[56] and high profile, nineteenth century cases in order to examine the barristers concerned. The press reported proceedings in the superior courts of England and Wales, most notably the Central Criminal Court (The Old Bailey), the Court of Chancery and high-profile civil courts, such as the Court of Common Pleas and the Court of Queen's Bench.[57] Many of these cases were reported in the press and demonstrated the work of the barrister to the public.

The criminal cases selected for the purpose of this study were *R v. Thistlewood and Others* (1820)[58] also known as 'The Cato Street Conspiracy', *R v. Courvoisier* (1840),[59] *R v. Palmer* (1856)[60] also known as the 'Rugeley

[56] A *causes célèbres* was an issue causing widespread controversy or public debate. This is especially true in the press of the Nineteenth century
[57] After the Supreme Court of Judicature Act (1873) 36 & 37 Vict c. 66 and Supreme Court of Judicature Act (1875) 38 & 38 Vict c. 77 these courts became the divisions of the High Court
[58] Unreported
[59] [1840] 173 ER 869 (1688–1867) DJA Cairns, *Advocacy and the Making of the Adversarial Criminal Trial 1800–1865,* (OUP 1998) xiv; R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 21
[60] [1856] 104 R. R. 845–849; DJA Cairns, *Advocacy and the Making of the Adversarial Criminal Trial*, (OUP 1998) xiv

Poisoner Case', *R v. Castro* (1874)[61] also known as the 'Perjury of the Tichborne Claimant' and *R v. Bartlett and Dyson* (1886)[62] also known as the 'Pimlico Mystery'. Other scholars have chosen these cases due to their notorious reputation, their characteristics as *causes célèbres* and their recognition as such. These cases have been selected for this thesis since their notoriety placed the barrister firmly in the public consciousness.

The social changes indicative of the industrial revolution gave rise to many civil law claims that were also featured in the press of the nineteenth century. This thesis also examines a number of these civil cases in order to compare and contrast the representation of the barrister within civil cases to the criminal cases in which they feature. The cases selected are the case of the 'Tichborne Claimant' *(Tichborne v. Lushington*)[63] and *Gordon-Cumming v. Wilson and Others* (1891).[64] These cases were also *causes célèbres* because of their subject matter and because of the individuals at their centres or as a result of their press coverage.

This work also examines the continuing discussion of the bar's educational processes during the Victorian era by examining press responses to propositions made by Parliament to reform the educational structure of the Inns of Court. The source base studied includes the House of Commons Parliamentary Papers alongside the debates (Hansard) to ascertain what changes were proposed by Parliament and central government and then to cross-reference these with the British Library nineteenth century newspaper and periodical collections in order to

[61] *R v. Castro* [1874] LR 9 QB 350 (Perjury of the Tichborne Claimant)
[62] Unreported
[63] *Tichborne v. Lushington* (1872) HC Civ
[64] Unreported

analyse how the press reported and received such information. The chapter that examines the education of the bar in the nineteenth century also explores commentary, editorial and letters around such propositions and discussions to establish a more in-depth understanding of public opinion and press representation of the bar.

Furthermore, in order to examine the press representation of the bar's disciplinary processes during the nineteenth century, this work draws upon primary source material from the archives of each of the four Inns of Court,[65] and cross-references findings within the British Library's nineteenth century newspaper and periodical collections. This uses primary source materials from all discipline hearings in the Inns of Court to ascertain what disciplinary issues occurred in this period and examines how the press represented them to the public. This primary source-led approach allows this work to be more precise in its construction of an image and allows a more specific approach to utilising digital press collections. However, this thesis will not explore disciplinary cases heard before the circuit messes and their reporting in the national or regional press. It is envisaged that this will be the focus of future work.

[65] Gray's Inn Archive (GIA), Records of Disciplinary and Professional Conduct; Inner Temple Archives (ITA), Disciplinary and Professional Conduct Papers (1821-1938); Lincoln's Inn Archive (LIA), Black Books (BB Original Editions), vol. 18-39 (1799-1901); Middle Temple Archive (MTA), MT.1/MPI/10-21 (1798-1908), Minutes of Proceedings at Parliament

Chapter 1

The Theoretical and Historical Context

Introduction

To achieve the aim of this thesis and sufficiently answer the corresponding research questions, this work will need to be positioned within the theoretical and historical context. This chapter will provide a review of the pertinent literature on the main subjects of this thesis in order to place this research within the existing body of scholarship. This will also demonstrate how this thesis addresses an existing omission in current scholarship and promotes a more diverse approach to reading cultural sources within the discipline of cultural legal history.

This thesis draws together themes and approaches from multiple disciplines including the legal history of the bar,[1] the study of law and lawyers in popular culture,[2] and studies of the nineteenth century press.[3] A number of

[1] See generally, WR Cornish and G de N Clark, *Law and Society in England 1750–1950,* (online version 1989); AH Manchester, *A Modern Legal History of England and Wales,* (Butterworths 1980); more specifically R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983); D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983); WW Pue and D Sugarman (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)*;* WW Pue, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review* 135 and PJ Corfield, *Power and the Professions in Britain 1750–1850* (Routledge 1995)

[2] See generally, MDA Freeman, *Law and Popular Culture,* (OUP 2005) and in LM Friedman, 'Law, Lawyers, and Popular Culture' (1989) 98(8) *Yale L.J.* 1579. This includes scholarship into a number of specific cultural texts. For cinema and film, see MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533; MR Asimow, **'**When Lawyers were Heroes' (1995–1996) 30 *USF L. Rev*. 1131; FM Nevins, 'When Celluloid Lawyers Started to Speak: Exploring Juriscinema's First Golden Age' in MDA Freeman, *Law and Popular Culture,* (OUP 2005) 109**.** For television, see J Denvir, 'Law, Lawyers, Film & Television' (2000) 24 *Legal Stud F* 279; S Machura and S Ulbrich, 'Law in Film: Globalizing the Courtroom Drama' (2001) 28 *Journal of Law and Society* 117. For literature, see C Menkel-Meadow, 'The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft' (1999–2000) 31(1) *McGeorge L. Rev.* 1; RA Posner, *Law and Literature,* (3rd edn, Harvard UP 2009) and for Science Fiction, see M Travis, 'Making Space: Law and Science Fiction' (2011) 23(2) *Law and Literature* 241 and M Travis and K Tranter, 'Interrogating Absence: The Lawyer in Science Fiction' (2014) 21(1) *The International Journal of the Legal Profession* 23

[3] See generally, A Jones, *The Power of the Press,* (Scolar Press 1996); J Grant, *The Newspaper Press: Its Origins, Progress and Present Position, vol. I, II and III,* (Tinsley Brothers 1871); A King and J Plunkett, *Victorian Print Media A Reader,* (OUP 2005); J Shattock and M Wolff, *The Victorian Periodical Press: Samplings and Soundings,* (Leicester University Press 1982); J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995); L Brown, *Victorian News and Newspapers,* (Clarendon Press 1985); and more specifically to crime and legal process, J Rowbotham and K Stevenson (eds), *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (State University Press 2005)*;* J Rowbotham and K Stevenson, *Behaving Badly: Social Panic and Moral Outrage – Victorian and*

theoretical concepts will be explored, specifically to define the press as a text of popular culture and in constructing a public image. These will include theories and definitions from studies in popular culture and popular legal culture; work already undertaken on constructing the public image; the ontology of the image; and the implicit narrative nature of law. The historical context includes; the representation of the lawyer in historical cultural texts; an overview of the history of the barrister's profession in the nineteenth century; and the research into the press culture of England during the period of study.

Theoretical Concepts

In the following section, a number of theoretical concepts will be explored in order to define key terms, theories, and terms of reference used within this thesis. This discussion will also position this work in the existing scholarship and go some way in demonstrating the originality of this research. This will include defining popular and legal culture for the benefit of this thesis, and will explore how a public image can be created by reflection upon a definition for public image in legal studies. This will draw upon work from various disciplines, including cultural studies, studies in popular culture, communication studies, marketing, business, and organisation scholarship. This section will also explore the ontology of the image and explain how images can be constructed in the minds eye from textual and visual images, through the different processes of 'reading' these sources. Finally, this section will explore the narrative characteristics of law. This will include an analysis of the definition of the 'narrative nature' of law used in this work.

Modern Parallels, (Ashgate 2003) and R Sindall, *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* (Leicester University Press 1990)

Popular Culture and Legal Culture

To achieve the aforementioned research aim and answer the research questions outlined in the introduction, distinct definitions of popular and legal culture need to be established. This is especially important as this thesis seeks to explore whether the press of the nineteenth century could be considered as a key cultural text within the emergence of a mass popular culture during the period.

In the last decade or so, there has been increased academic interest in the study of 'popular culture' and in using cultural texts[4] as a source in social science and humanities research. Specifically, there has been some interest in the history of popular culture,[5] law in popular culture,[6] and cultural legal histories.[7] The study of popular culture has distinctly interdisciplinary foundations, and due to the diverse nature of research into this concept, modern definitions of popular culture are complex and varied. Studies in popular culture encompass subjects such as anthropology, philosophy, sociology, media studies, communication studies, cultural history, political and economic theory, literary theory, and psychoanalytical theory. These diverse backgrounds define and inform the interdisciplinary characteristics of studies in popular culture. These subjects have often existed in a theoretical and methodological collaboration, and although the study of popular culture is a relatively new discipline, it has developed as an

[4] Cultural texts were defined in the introduction.
[5] See generally, E Griffin, *England's Revelry: A History of Popular Sports and Pastimes 1660–1830,* (OUP 2005) and R Crone, *Violent Victorians,* (Manchester University Press 2012). See also J Cullen, *The Art of Democracy: A Concise History of Popular Culture in the United States,* (2nd edn, NYU Press 2002) 1 and RF Betts and L Bly, *A History of Popular Culture,* (2nd edn, Routledge 2013) I-1
[6] See generally, RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002); MDA Freeman, *Law and Popular Culture,* (OUP 2005); M Asimow and S Mader, *Law and Popular Culture: A Course Book,* (Peter Lang 2007); R Posner, *Law and Literature,* (3rd edn, Harvard University Press 2009)
[7] See generally, WW Pue, and D Sugarman, (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)*;* M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)

important mode of analysis in more traditional academic subjects.[8] Furthermore, the widespread interest in popular culture across these various disciplines demonstrates the pervasive characteristics of cultural texts and the necessary multifaceted approach used in its analysis.

To define popular culture, a definition of culture must first be given. Raymond Williams in *Keywords*[9] gives a number of definitions to the phrase.[10] Culture can be viewed as "a general process of intellectual, spiritual, and aesthetic development,"[11] as "a particular way of life, whether of a people, a period or group,"[12] and even "the works and practices of intellectual and especially artistic activity."[13]

For the benefit of this thesis and for the study of popular culture in the press, the latter two definitions would be most applicable. This is because these definitions are most synonymous with what we would deem to be popular culture when analysing press texts. Specifically, "a particular way of life, whether of a people, a period or group"[14] could be seen as specific activities that individuals or groups would undertake, or lived culture,[15] of which the press is the great recorder, both reflecting and leading public opinion, and capturing the societal zeitgeist. The further definition of "the works and practices of intellectual and especially artistic activity"[16] would suggest that particular texts could give meaning to our cultural understandings. The press can be viewed as a pervasive

[8] See S Hall, 'Cultural Identity and Cinematic Representations' (1989) 36 *Framework* 68
[9] R Williams, *Keywords: A Vocabulary of Culture and Society,* (OUP 1985)
[10] *Ibid,* 87-93
[11] *Ibid,* 90
[12] *Ibid*
[13] *Ibid*
[14] *Ibid*
[15] J Storey, *Cultural theory and Popular Culture: An Introduction,* (4th edn, Pearson 2006) 2
[16] *Ibid*

and far-reaching intellectual activity, a mass demonstration of public intelligence and artistic creativity that can transmit specific meanings to ideas, institutions, communal groups, and other areas of nineteenth century society.

Bearing these definitions in mind, a broad definition of popular culture is considered to be "the entire universe of knowledge, behaviours, beliefs and attitudes that circulate in a particular society or sub-group of society".[17] Popular culture can also be defined as the "site where the construction of everyday life may be examined."[18] Storey has identified a number of different concepts through which to define popular culture.[19] The relevant concepts are:

1) Popular Culture as Quantitative Equation

2) Popular culture as a residual category distinguished from high culture;

3) The post-modern approach to popular culture;

4) Popular culture as mass culture;

5) Popular culture as a product of the people for the people;

6) Popular culture as a site of struggle and negotiation between dominant forces of societal control and the general public;

Popular culture as a quantitative equation would be the most versatile and simplistic definition that we could engage in with during analysis of popular culture. This would be a simple calculation of what cultural texts or practices are well liked, or even most liked in a particular zeitgeist. This could be a measure of popular culture based on the top 40 UK singles chart, viewer figures for TV shows, box office receipts for film, sales figures for literature, or even signatories on popular-cause petitions. Yet, while this measure will give us the degree to

[17] M Asimow and S Mader, *Law and Popular Culture: A Course Book,* (Peter Lang 2007) 4
[18] G Turner, *British Cultural Studies: An Introduction,* (2nd edn, Routledge 1996) 6
[19] J Storey, *Cultural theory and Popular Culture: An Introduction*, (4th edn, Pearson 2006) 4–11

which something can be argued as popular, it means little without engaging with further conceptions of popular culture to understand engagement with cultural texts, not just quantitative numbers. However, any definition of popular culture does require a quantitative element.

Popular culture as a residual category distinguished from high culture, refers to the widespread (mass) nature of popular culture once cultural studies has removed what it defines as high culture. High culture can be defined in a number of ways. Storey states that high culture is an exclusive form of a culture that can only be understood by consumption of cultural texts that can be seen as complex, exclusive, expensive, or high-class, and therefore ensures its exclusivity.[20] This may include portraiture, opera, theatre, fine art, and more. This can often be linked to class pursuits, behaviours, and interests, which can "legitimise social differences."[21] High culture can also be defined as an object of individual creation as opposed to popular objects of mass-produced commercial culture.[22] Therefore, popular culture can be seen as those texts, activities, behaviours, beliefs and attitudes that exist once high culture has been removed.

Popular culture as mass culture draws greatly upon the previous definitions, and defines popular culture as a mass culture for widespread consumption. Storey defines its audience as "a mass of non-discriminating consumers… it is a culture which is consumed by brain-numbed and brain-numbing passivity."[23] This mass culture definition would connect with the previous definition of popular culture as quantitative equation, but would argue

[20] *Ibid,* 5
[21] P Bourdieu, *Distinction: A Social Critique of the Judgement of Taste,* (trans by R Nice, HUP 1984) 5
[22] J Storey, *Cultural theory and Popular Culture: An Introduction,* (4th edn, Pearson 2006) 5
[23] *Ibid* 6

that this mindless consumption of cultural texts would be different to previous patterns of more thoughtful consumption of cultural texts, and a more thoughtful creation of a popular culture.

The post-modern definition is the most contemporary understanding of culture as reflected in the mass cultural transmission across numerous mediums, based on an understanding that there is a distinct absence of the disjunction between high and popular culture. This post-modern definition demonstrates that a mass culture has been facilitated by changes to technology and distribution methods in the post-modern world, particularly the internet and our instantaneous media culture.

The next definition outlined by Storey includes that of popular culture as a product for the people created by the people. This can also be seen as folk culture. This definition argues that in order to define popular culture, it needs to be a product of the people to be seen as truly popular. This is linked to other definitions outlined here, but can largely be considered to be a broad definition of popular culture, as individuals can be seen to be creators of culture for the people, while also being part of the people.

Storey also draws upon the work of Gramsci[24] and proposes that the public, for their own consumption, produce texts, attitudes or behaviours as a means of expression or rebellion against social control. Some examples of this are particular art movements, such as Dadaism,[25] and works of literature, such as

[24] A Gramsci, 'Hegemony, Intellectuals and the State' in J Storey, *Cultural Theory and Popular Culture,* (3rd edn, Pearson 2006) 85

[25] Dadaism was an avant-garde cultural movement that began during the First World War and focused on the production of cultural texts with themes of anti-war and anti-bourgeois, left wing politics.

those by Charles Dickens.[26] More obviously, this can also be seen in particular sub-cultures and youth movements, such as the mods and rockers.[27] This could also be viewed as a point of subversion against traditional modes of culture or high culture. This can even exist within popular culture itself; the punk movement in the early 1970s would be evidence for this.

However, Storey also acknowledges that a common thread that exists through all these definitions, that popular culture is "a culture that only emerged following industrialisation and urbanisation."[28] Both Storey and Williams[29] argue that these definitions of culture depend on there being a capitalist market economy and that "this makes Britain the first country to produce popular culture defined in the historically restricted way."[30] Changes indicative of the industrial revolution resulted in the creation of a "cultural space outside of the paternalist considerations of earlier common culture" [31] and away from the "controlling influence of the dominant classes."[32] The industrialisation of society created a more distinct working class that had at least a small disposable income to engage in cultural activities.[33] The mass urbanisation of the working populace solidified distinct class organisations within towns and cities, creating a coherence of class community unseen previously through history.[34] This allowed these popular cultures to form, and facilitated the provided access to cultural texts unheard of in

[26] The works of Charles Dickens are widely acknowledged as being inherently critical of society, the state and societal institutions
[27] S Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers,* (3rd edn, Routledge 2002) viii
[28] J Storey, *Cultural theory and Popular Culture: An Introduction,* (4th edn, Pearson 2006) 10
[29] See R Williams, *Culture and Society,* (Penguin 1963) 11
[30] J Storey, *Cultural theory and Popular Culture: An Introduction,* (4th edn, Pearson 2006) 10
[31] *Ibid*
[32] *Ibid*
[33] P Bailey, *Leisure and Class in Victorian England: Rational Recreation and the Contest for Control, 1830–1885*, (Routledge 1978) 2
[34] R Dennis, *English Industrial Cities of the Nineteenth Century: A Social Geography,* (CUP 1984) 268

previous centuries. A definition of popular culture can comprise a number of these distinct concepts and this section will now outline which definition of popular culture this thesis will utilise in its research.

As a starting point, this work uses a definition of popular culture drawn from the aforementioned established classifications. The principal definition used by this thesis is one of *'popular culture as defined by quantitative equation and not restricted to the upper classes.'* This is to ensure that any texts, activities, behaviours or attitudes examined as the subject of this work are recognised as mass sources with quantitative evidence, and to ensure that they are consumed by a sufficiently broad demographic to encompass all of society, not just the intelligentsia or elite. However, the historical context of the period and cultural texts being examined also needs to be considered when defining popular culture. For example, the post-modern definition of popular culture is used to distinguish all the "commercial texts[35] or media, such as films, televisions, stage plays, print publications and songs that are created for popular consumption" [36] in modern society. There is a possibility that during the period of study a wide-ranging merging of high and mass culture as the press was a text marketed at all classes of society and was not just the preserve of the elite. When this thesis talks about constructing a popular image, the pervasive and far-reaching press can be seen as the first text of popular culture that was truly mass and truly cross-class.

The definition of popular culture espoused in this work acknowledges the mass characteristics of cultural texts based upon their quantitative equation, while recognising that these sources are cross-class. This definition is intended to

[35] The use of the word 'texts' here is the definition of cultural texts outlined in the introduction.
[36] WP MacNeil, *Lex Populi: The Jurisprudence of Popular Culture,* (Stanford UP 2009) 1

differentiate this theory of popular culture from other theories including those that contrast high culture from working-class culture and folk culture.[37] The idea of working-class culture focuses on the culture of the working class and cultural artefacts consumed by the working class.[38] Whereas folk culture can be seen as culture created for the people by the people.[39] This work argues that in order to understand popular culture in the nineteenth century, and particularly to examine the press representation of the bar across class divides, then a definition of popular culture that recognises the cross-class characteristics of popular culture and the cultural texts within which it is constructed needs to be adopted.

The specific characteristics of the texts being analysed in this work, namely newspapers and periodicals, were texts that were cross-cultural and not restricted to the upper classes. The epoch being studied was an important period through which the disjunction between high culture and mass culture shifted.[40] Texts that were produced for mass consumption were generally considered to be popular texts, texts that were produced for an elite group, such as classical music, opera, fine art and high literature like poetry and serious fiction,[41] were considered high culture. Newspapers and the press culture of the nineteenth century could fall into either of these categories.[42] There were certain newspapers that were marketed to the elite, for example *The Times* and *The Pall Mall Gazette,* and newspapers that were marketed at the working classes, including *Lloyd's Weekly Newspaper*, but this again was not exclusively reserved for the masses. The definition of popular culture adopted by this work

[37] D Strinati, *An Introduction to Theories of Popular Culture,* (2nd edn, Routledge 2002) 10
[38] *Ibid,* 2
[39] *Ibid,* 2
[40] R Williams, *Culture and Society* (Penguin 1963) 11
[41] WP MacNeil, *Lex Populi: The Jurisprudence of Popular Culture*, (Stanford UP 2009) 1
[42] J Storey, *Cultural theory and Popular Culture: An Introduction*, (4th edn, Pearson 2006) 6

acknowledges these mass, cross-cultural characteristics of the sources examined in this work.

During the nineteenth century, there was also a popular movement to make established forms of high culture more accessible to mass audiences. For example, the opening of the National Gallery in 1824, the Natural History Museum in 1881 and the expansion of the British Museum in the first half of the 1800s gave free access to the public, sought to erode the elitism of high culture and forward widespread public engagement with such cultural pursuits. The cultural critic and poet, Matthew Arnold, described the importance of mass culture, espoused an erosion of pre-existing high and working-class cultural divisions, and a refocusing across all social classes on liberal culture. He explained

> "culture works differently. It does not try to teach down to the level of inferior classes; it does not try to win them for this or that sect of its own, with ready-made judgments and watchwords. It seeks to do away with classes; to make all live in an atmosphere of sweetness and light, and use ideas, as it uses them itself, freely, to be nourished and not bound by them."[43]

While this thesis does not focus on such desires for widespread liberal education, this quotation does demonstrate nineteenth century attitudes towards the creation of a truly popular culture that did not restrict pursuits to social classes. The press exemplifies this cross-class culture that was truly mass based upon quantitative equation.

[43] M Arnold, *Culture and Anarchy* (repr. OUP 2006) 52

A further reason that this definition of popular culture has been adopted for this work is in recognition of the socio-economic[44] and cultural changes[45] that occurred during the industrial revolution.The merge between high culture and popular culture was facilitated by the rapid development in technology. Books could be produced more cheaply[46] and newspapers were produced for wider mass distribution on cheaper materials.[47] To some degree, this merging can be exemplified by the work of Charles Dickens. A certain number of Dickens's works were published as weekly or bi-weekly serials, allowing serious fiction to be purchased in part works by a wider audience for a reasonable price, usually a shilling or less.[48] This afforded the lower-middle class, and even the low-income working class, an opportunity to purchase works of serious fiction, and provided a platform for these publications to be read and discussed by the mass public, as opposed to them being solely the preserve of a wealthy elite.

This was not to say that a broad spectrum of the public had not engaged with printed materials prior to the nineteenth century,[49] but the era saw literary fiction become much more popular and pervasive across class boundaries. Further movement away from printed media mainly for the elite towards a press for the masses encouraged this fusion of high and popular culture, and is further illustrated by a massive growth in press publications aimed at all levels of nineteenth century social hierarchy. Today, there is much less of a clear

[44] See generally, E Hobsbawm, *The Age of Revolution,* (repr. Abacus 2002); E Hobsbawm, *The Age of Capital,* (repr. Abacus 2002) and TS Ashton, *The Industrial Revolution,* (OUP 1964)
[45] See generally, F O'Gorman 'Introduction' in F O'Gorman (ed), *The Cambridge Companion to Victorian Culture,* (Cambridge University Press 2010) 1-11
[46] RD Altick, *The English Common Reader: A Social History of the Mass Reading Public, 1800–1900,* (University of Chicago Press 1957) 307
[47] *Ibid* 357
[48] *Ibid* 280
[49] This was particularly true for the common culture of pamphlets, illustrated ballads and broadsheets in the later seventeenth and early eighteenth.

distinction between high culture and mass culture; instead it could be argued that a mass popular culture exists.[50] Whilst this is highly debated,[51] the post-modernist view is consistent with the idea that a more united popular culture came into existence in the nineteenth century[52] encouraged by the urbanisation and modernisation of the industrial revolution.[53]

The press is an important source in the analysis of nineteenth century popular culture because "popular culture and the mass media have a symbiotic relationship; each depends on the other in an intimate collaboration".[54] Popular culture has the ability to lead and influence popular opinion whilst also reaffirming and reflecting beliefs and opinions already inherent in society, as Aristodemou has examined with a focus on fiction.[55] Popular sources are interesting "not simply because they are popular but because they may contribute to, or impede, rational and critical participation in the political world."[56] It is society that gives meaning and definition to cultural texts, even though persons or groups have created them. This can mean that society sometimes constructs connotations that producers of these texts may not have originally intended.[57]

Therefore, it is important to understand that the press can both lead public opinion and reflect public beliefs through their publications. Lyz Bly stated in her preface to 'A History of Popular Culture' that

> while popular culture is never a perfect reflection of society's vision of itself, it shows us what the general population is, what – to use the more

[50] J Storey, *Cultural theory and Popular Culture: An Introduction*, (4th edn, Pearson 2006) 5
[51] *Ibid,* 4–7
[52] *Ibid,* 13
[53] *Ibid*
[54] R Shuker, *Understanding Popular Music Culture,* (3rd edn, Routledge 2007), 4
[55] M Aristodemou, *Law and Literature: Journeys from Her to Eternity,* (OUP 2000) 84
[56] C Mukerji and M Schudson, *Rethinking Popular Culture,* (University of California Press 1991) 37
[57] *Ibid,* 29

> academically elitist phrase – 'ordinary people' are tolerating at any given moment in time. Beyond that, instances of popular culture… stoke – and perhaps shape – viewers visions of what is possible.[58]

Law and popular culture share similar characteristics. Aristodemou has summarised that "both law and popular culture are complex phenomena, drawing upon and combining elements of historical, religious, political, ethical and social contexts".[59] It is this intertwined characteristic that makes popular culture a valuable source for historical and social research in which to analyse the law and the principal actor within it: the barrister. Popular culture and cultural texts must be explored when analysing the law and the barrister as "any attempt to understand adequately the way law works in contemporary society requires that popular culture be taken into account".[60] Similarly, popular culture must be analysed to understand public attitudes towards law and barristers in the nineteenth century.

For many in the Victorian era, especially the lower middle and working classes, the law and barristers were not accessible, other than to those charged with serious criminal offences. Therefore, the press was probably the only exposure that the majority of society had to the law and legal professions, and it constructed the wider public knowledge of legal process. In the nineteenth century, the main legal professional that featured in the press was the barrister. This was due to his[61] public role as an advocate and because his work was very different in nature to the professional activities of an attorney or solicitor. The

[58] RF Betts and L Bly, *A History of Popular Culture,* (2nd edn, Routledge 2013) xii
[59] M Aristodemou, *Law and Literature: Journeys from Her to Eternity,* (OUP 2000) 11
[60] RK, *When Law Goes Pop*, (University of Chicago Press 2002) 17
[61] During the nineteenth century, there were no female barristers. Therefore, the terms used in this thesis are masculine

barrister featured predominantly in court reports and as an active participant in ongoing debates around current affairs. The press representation of barristers did

> not only reach a much larger audience than standard legal texts, but potentially, and even more democratically, they also help restore topics of jurisprudential import – justice, rights, ethics – to where they belong: not with the economists, not with the sociologists, not even with the philosophers, but rather with the community at large.[62]

This has been the motivation for analysing in legal culture with such vigour.

> Legal Culture has been defined as the
>
> ideas, attitudes, values, and opinions about law held by people in society. Everyone in society has ideas and attitudes, and about a range of subjects-education, crime, the economic system, gender relations, religion. Legal culture refers to those ideas and attitudes that are specifically legal in content-ideas about courts, justice, the police, the supreme court, lawyers, and so on.[63]

Therefore, popular legal culture can be defined as the ideas, attitudes, values and opinions about law that can be understood from an analysis of popular cultural texts. This analysis of popular legal culture as represented in cultural texts is particularly important as cultural texts have the ability to construct such ideas, attitudes, values and opinions through their transmission. Cultural texts afford us the opportunity to examine themes and motifs found within legal culture, specifically the beliefs held by society on legal institutions can be considered to be part of the popular culture of society. Specifically, the representation of the barrister in the press of the nineteenth century could be seen to contribute to the construction of Victorian popular legal culture and therefore, an aspect of nineteenth century popular culture.

In the last decade, research has focused on the representation of law in cultural texts and their intersection with society. Research into the relationship

[62] WP MacNeil, *Lex Populi: The Jurisprudence of Popular Culture,* (Stanford UP 2009) 1
[63] LM Friedman, 'Law, Lawyers, and Popular Culture' (1989) 98(8) *Yale L.J.* 1579.

between the lawyer, cultural texts and popular culture has been strikingly diverse. For example, Owens[64] has written on the lawyer in the works of John Grisham; Asimow[65] and Haddad[66] have written on the lawyer in film; and Menkel-Meadow[67] and Machura and Ulbrich[68] have discussed them in the context of television. However, a seminal work on the subject is 'Law goes Pop' by Richard Sherwin. [69]

In this work Sherwin examines the interrelationship between law and popular culture and the proliferation of law in cultural texts since the 1980s, which he describes as the law going 'pop'. He reasons that such shifts occurred because changes and developments in technology and society from the 1980s onwards have led to a proliferation of sources (textual and visual), and the emergence of an instantaneous news culture that has placed the lawyer at the heart of popular culture. He states: "Yet, as culture wars rage, the technology of mass culture rolls on. And the visual mass media, particularly television, have their own models of truth and reason, law and justice, to purvey...Law stories have consistently made up a significant portion of the popular culture."[70] This is an important concept for the aim of this thesis as it emphasises how technological advancement or a wider saturation of cultural texts in society can popularise law and legal themes. This concept can be transplanted into the nineteenth century. While the media may have changed, it can be argued that the

[64] JB Owens, 'Grisham's Legal Tales: A Moral Compass for the Young Lawyer' (2000–2001) 48 *UCLA L. Rev,* 1431
[65] MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533 and MR Asimow, 'When Lawyers were Heroes' (1996) 30 *USF L. Rev.* 1132
[66] T Haddad, 'Silver Tongues on the Silver Screen: Legal Ethics in the Movie' (1999–2000) 24 *Nova L. Rev.* 673
[67] C Menkel-Meadow, 'The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft' (1999–2000) 31(1) *McGeorge L. Rev.* 1
[68] S Machura and S Ulbrich, 'Law in Film: Globalizing the Courtroom Drama' (2001) 28 *Journal of Law and Society* 117-32
[69] RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002) 17
[70] *Ibid*, 17

law went 'pop' far earlier than Sherwin argues. Maybe not on the global scale outlined by Sherwin, but certainly in the popular culture of England and Wales.

Galanter[71] and Asimow[72] are also prolific scholars in this field of law and popular culture, and both have also asserted that the major proliferation of law in popular culture occurred in the 1980s. Galanter and Asimow have also argued that there was a major rise in the negative representation of the lawyer in popular culture during the 1980s and this either reflected or encouraged negative public attitudes directed at legal professions. This thesis will contribute to these existing opinions by examining if the law and the representation of the barrister was popularised far earlier than the twentieth century, specifically during the expansion and visualisation of society in the nineteenth century and examine the nature of that popular representation.

Constructing the Public Image

One key question posed by this thesis is how the representation of barrister in the press could have constructed the public image of the bar in the nineteenth century. In order to explain this process of construction, a definition of public image for legal scholarship is required. This term is used frequently in the scholarship of professions and certain industries,[73] but has yet to be given a distinct definition in legal history scholarship. Defining the concept of the public image can be problematic, as it often draws upon many fields of research, such as cultural studies, communication theory, marketing, and professional history.

[71] M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)
[72] MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533 and MR Asimow, 'When Lawyers were Heroes' (1996) 30 *USF L. Rev.* 1132
[73] For a direct cultural, historical and professional perspective see RA Buerki, 'The Public Image of the American Pharmacist in the Popular Press' (1996) 38(2) *Pharmacy in History* 62, 62

Public image is defined in this work as the opinion that is represented to the public through various media, including cultural texts and the press, and how this is constructed in the mind's eye of the public. Dukerich defined public image, as the way organisation members believe others see their organisation,[74] whereas Bernstein defined the image as being "not what the company believes it to be, but the feelings and beliefs about the company that exists in the minds of its audience".[75] Although Bernstein's definition is related to the study and theory of marketing, this definition of public image could be extended to include the social perception of, and opinion on, a particular subject matter, such as institutions, groups, professions or societal practice. It is also not strictly applicable to purely business organisations or professions. It is Bernstein's definition that is adopted for this work. This work does not seek to ascertain in detail what image the barrister's profession in the nineteenth century believed the public held, instead it seeks to argue what feelings and beliefs were constructed in the public mind by ascertaining how the bar was represented in the press.

Although Bernstein's definition is from another field of research, it succinctly defines public image for use in this thesis. This research is concerned with how the press of the nineteenth century represented an image or images of the bar, how this contributed to constructing a public image of the profession, and therefore influenced widespread public opinion of professions, institutions, and other public figures or offices.

[74] J Dutton and J Dukerich, 'Keeping an Eye on the Mirror: Image and Identity in Organizational Adaption' (1991) 34 *Academy of Management Review* 517, 517
[75] Cited in R Abratt, 'A New Approach to the Corporate Image Management Process' (1989) 5(1) *Journal of Marketing Management* 63, 63

Some research has been undertaken into the public perceptions of aspects of the law in the press of the nineteenth century, and the subsequent public opinion of criminal activity that was created.[76] For example, Rowbotham and Stevenson have recently collected a number of essays exploring the way in which society in the nineteenth century used newspapers to identify the causes and impacts of bad behaviour, and the ways in which they tried to distance criminals from ordinary members of society.[77] This is an example of using the press to examine the construction of both a public image of a wider class within society and of specific individuals.

To define the concept of construction conclusively, construction of a public image is the process through which the press leads and reflects public opinion. It relies on the academic theory that cultural texts, specifically the press, have the ability to lead and reflect public opinion. If a public image is partly how an organisation or institution is represented to the public through the media, then this image is subsequently constructed by the medias ability to shape and reshape opinion. Histories of the press, cultural theory, and studies in popular culture have also examined the interrelationship between cultural texts and popular opinion, and it is at this juncture that such sources can create a public image. It was stated in the preceding section that cultural texts could both create public opinion and reflect it.[78]

[76] For example, J Rowbotham and K Stevenson (eds), *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (State University Press 2005)*;* J Rowbotham and K Stevenson, *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels,* (Ashgate 2003) and R Sindall, *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* (Leicester University Press 1990)

[77] See generally, J Rowbotham and K Stevenson (eds), *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (State University Press 2005)

[78] A Jones, *The Power of the Press: Newspapers, Power and the Public in the Nineteenth Century,* (Scolar Press 1996) 4

Research in legal culture has also expressed how cultural texts can influence the public opinion of the law and lawyers. Haddad quoted Rosenberg stating, "[d]oes television [or a movie] create attitudes and perceptions about lawyers or simply deliver and embellish attitudes and perceptions that already exist? Put more broadly, does television [or a movie] create culture or is it simply created by the culture around it?"[79] Scholars in law and popular culture have been attempting to answer this question for a number of years and Asimow has emphasised the importance of cultural texts in creating or perpetuating the public image of law and lawyers. Asimow has stated, "popular culture reflects attitudes and myths that are already deeply rooted in the common psyche"[80] and that "these films tend to mirror popular culture, and the power of the movies tends to reinforce that culture. Therefore, the way in which movies portray what lawyers do, and why they do it, is fascinating social history."[81]

Echoing Asimow's theory, this thesis argues that cultural texts, including the press, can construct and reflect opinions already held by society, and in this was even more vital in the nineteenth century. It is this ability to reflect and direct opinion that allows this work to construct a public image through the representation of barristers in the press. Simply put, if the public image of the profession is what is represented through media, in this case the press, and that cultural texts are able to reflect and lead public opinion, then the press of the nineteenth century is an important text for measuring the public image of the bar in the period.

[79] CB Rosenberg, 'Foreword' in RM Jarvis and RP Joseph, (eds) *Prime Time Law: Fictional Television as Legal Narrative,* (Carolina Academic Press 1998); T Haddad, 'Silver Tongues on the Silver Screen: Legal Ethics in the Movie' (1999–2000) 24 *Nova L. Rev.* 673, 675
[80] MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533, 549
[81] MR Asimow, 'When Lawyers were Heroes' (1996) 30 *USF L. Rev.* 1132, 1133

To emphasise this further, the press could also act as the only way in which public opinion of various institutions, individuals and issues could be constructed or affirmed, as this may have been the only exposure that individuals had to them in Victorian society. It can be argued that barristers were the preserve of the wealthy and the nemesis of the criminal classes. The majority of the poor and working class had no direct or very limited actual engagement with the bar. This could also be the same for various other aspects of nineteenth century society, including politicians. It can be argued that for the majority of the public, their only real means of exposure to various institutions, individuals and issues was through their reporting in the press. For the benefit of this thesis, this can increase the importance of the press in the period of study, as it may have been the only means through which a public image of the barrister's profession could be constructed; it is argued through this thesis that the press was the barrister's primary means of exposure.

The Ontology of the Image

As this thesis' methodology is based around content analysis, a theoretical justification for the construction of the image is fundamental. To fully consider the construction of the public image of the barrister in the nineteenth century press, a definition of the image is required. In this section, a definition of the textual and visual image is given and a theoretical lens is provided to explain how the image is read and signified within the minds eye of the reader or observer. This would contribute to the creation and reflection of popular culture as outlined earlier in this chapter.

In order to define the concept of the image, it is important to draw a distinction between the concept of an image created through text and the actual

visual image. Douzinas stated that "in the most general sense, the image is the object of vision, seeing is to perceive the images the world projects".[82] This analysis can apply to both the image created through textual representation and through the constructive interpretation of the visual image. It is argued in this thesis that the methods in which the textual and visual images are constructed are not significantly different.

An image that can be constructed through textual sources allows the reader, consumer or user to perceive the image that the "world projects"[83] or, at the very least, that the source projects. Douzinas also describes the image as organising mental representations as "it supports imagination and forms the building blocks of both ordinary and poetic language…the signifier in its arbitrary link with the signified forms images through which we conceive the sign/concept".[84] This is vital in defining the image through textual analysis because the aim of this thesis is to critically examine the image projected by the press of the nineteenth century.

The study of semiotics is an approach that seeks to examine the process through which the image can be constructed through language. One component of this approach explores how language can act as a signifier in the construction of signs within the mind of the individual or the social consciousness. Semiotics has been given a broad definition due to its interdisciplinary characteristics and varied adoption of differing methodologies. Eco has defined semiotics as the

[82] C Douzinas, 'A Legal Phenomenology of Images' in O Ben-Dor, *Law and Art: Justice Ethics and Aesthetics,* (Routledge 2011) 247
[83] *Ibid*
[84] *Ibid*

study of "everything that can be taken as a sign,"[85] and transmits messages. Pierce defines the sign as "something which stands to somebody for something in some respect or capacity."[86] This is fundamental to the study of culture and examination of media when considering how images are created through cultural texts, and their impact on a specific group, and it assists this work by allowing us to analyse the image constructed by the language used in press resources in order to answer the research questions posed by this work to achieve its research aim.

In relation to this thesis, the public image of the profession will be established through the examination of the construction of these signs by the press of the nineteenth century. For the purpose of this thesis, the construction of the sign is undertaken through a process of psychological and conscious signification by the appreciation of cultural sources, which begins to relate specific signifiers to signified subjects. In relation to cultural studies, Ronald Barthes influenced the development of structuralism and semiotics and was the first to draw upon semiotics in relation to the examination and reading of sources of popular culture[87] and other cultural phenomenon. He described semiology as being able to "take in any system of signs, whatever their substance and limits; images, gestures, musical sounds, objects, and the complex associations of all of these, which form the content of ritual, convention or public entertainment: these constitute, if not languages, at least systems of signification."[88] It was Barthes' understanding, interpretation and advocation of this function of semiotics that was

[85] U Eco, *A Theory of Semiotics,* (Macmillan 1976) 7
[86] CS Peirce, *Collected Writings (8 Vols.)* (C Hartshorne, P Weiss & AW Burks (eds), Harvard University Press 1931-1958), 228
[87] See generally, R Barthes, *Mythologies,* (Vintage Books 2009) and R Barthes 'Myth Today' in R Barthes, *Mythologies,* (Vintage Books 2009) 131
[88] R Barthes, *Elements of Semiology,* (A Lavers and C Smith trans., Jonathan Cape 1967) 9

a significant influence in the adoption of this approach for the analysis of cultural texts and the examination of the impacts of the media. In order to achieve the aim of this thesis, it is vital that images can be inferred from textual sources in order to fully explore the public image of the bar represented by the press.

Structuralists such as Ferdinand de Saussure[89] theorised around the relationship between language and the construction of psycho-linguistic meaning. Saussure explained language as a structured system of signs that can be examined, particularly the mental impression constructed in our mind by individual incidents of language. Saussure's *Course on General Linguistics* outlines the psycho-linguistic process through which we understand and attribute meaning to language, including the written word. Saussure divided language into two components, the signified (or the concept or meaning of a thing) and the signifier (the sound-image). The signified is the mental impression or association of the thing and the signifier is the sound-image or mental linguistic sign that denotes the thing, which when combined equates to the creation of the linguistic sign. For example, if we take the word tree, we are able to recognise the word tree through our psycho-linguistic knowledge and this is the linguistic unit or sound-image of the word. The concept or meaning is then signified through our understanding of the image of a tree (most probably, the idea of trunks, branches and leaves). It is these two components that combine to create the linguistic sign and the idea as a whole. This process is not limited to the written or spoken word, but to the mental impressions of certain things. However, this process of signification does occur through our engagement with language in all forms.

[89] See F de Saussure, *Course in General Linguistics,* (3rd edn. W Baskin trans. McGraw-Hill 1967)

This structuralist theory is important to understand the way in which language is constructed and meaning is understood by the individual consumer of written texts, particularly the press. In order to analyse the image that is formed in the mind's eye of the individual, when represented by the press and received by the consumer, an understanding of the process of signification is key. Particularly as it shows how meaning is separate but interrelated to the sound-image of the word. This is even more important where the concept or meaning of a word can change. In his work Saussure describes the powerless nature of language from defending itself against the shifting relationship between the signified and the signifier.[90] However, he acknowledges that it is the signified or meaning of the word that tends to shift and change whereas they signifier is less prone to change. Saussure argues that language is limited by nothing in the choice of meaning, as there is nothing to prevent the "associating of any idea whatsoever with just any sequence of sounds."[91] This fluidity in the signified is important for this work due to the persuasive influence a mass cultural text can have on the ability to adjust the signified meaning and, by consequence, the resultant linguistic sign. The meaning that an individual attributes to a particular signifier is also dependent on context, and this context can be set by cultural texts.

However, the extent that this could be true in this systematic construction of language is questionable. Would negative representations of barristers in the press really affect the meaning of the word? It is most certainly possible, but the extent at which this would occur could most certainly be questioned in isolation. Although when considered with Barthes work on semiotics and myth. Barthes

[90] F de Saussure, *Course in General Linguistics,* (3rd edn. W Baskin trans. McGraw-Hill 1967) 75
[91] *Ibid,* 76

developed this approach forwarded by Saussure and adds a secondary level of signification, to which wider social and cultural 'connotations' are added. For example, the word barrister may mean an advocate or lawyer, in order to create an image of the barrister in the mind's eye. However, through Barthes' suggestion of secondary signification or connotation, the word barrister may also have wider connotations of liar and untrustworthy, or professional and skilled, depending on societal constructions and the context within which the image is received. An image is constructed through this understanding and conception of language, and the popular understanding of language creates the public image.

It is this combination of the signified meaning and the wider context and connotations that can lead to the meaning of the word shifting, or at least secondary meanings added. This thesis argues that to examine the image of the bar that was constructed in the mind of the public then the context and connotations needs to be considered alongside the shifting meaning that can be attached to such words. Understanding the external image can help us understand the internal constructed image as the "internal and external images form a continuum; they bring to consciousness what is not present. Images give visual form to the invisible and make present what is absent."[92]

The individual interaction with the representation, and its affect on the construction of the image, has been further conceptualised by Nancy:

> at the intersection of the image and the idea, mental and intellectual representation is not foremost a copy of a thing but is rather the presentation of object to subject…it involves the constitution of the object as such…representation is a presence that is presented, exposed, or

[92] Douzinas, 'A Legal Phenomenology of Images' in O Ben-Dor, *Law and Art: Justice Ethics and Aesthetics,* (Routledge 2011) 247

> exhibited…it presents what is absent from pure and simple presence, from its being as such."[93]

Douzinas takes this idea further by asserting, "representation is not a mimetic repetition or simulation but a presentation, a coming to being. The original meaning of the Greek *hypotyposis* that *representatio* translated in Latin was theatrical or juridical witnessing or exposing.[94] This suggests that the public interaction with the representation did not just involve statements in the press, but it was a means of exposure that led to the creation of the public image. It is in this way that textual sources can create an image and, through a wider understanding of language, a public image is created.

Semiotic theory is advantageous for understanding how cultural texts and the media construct an image because it provides the ability to examine various types and formats of cultural texts. However, the manner through which signs are constructed varies across the format of cultural texts. Fairclough in his work on *Media Discourse* explored how users engaged with various 'channels' of transmission (cultural texts) in different ways. He observed that the

> press uses a visual channel, its language is written, and it draws upon technologies of photographic reproduction, graphic design, and printing. Radio, by contrast, uses an oral channel and spoken language and relies on technologies of sound recording and broadcasting, whilst television combines technologies of sound- and image-recording and broadcasting... These differences in channel and technology have significant wider implications in terms of the meaning potential of the different media. For instance, print is in an important sense less personal than radio or television. Radio begins to allow individuality and personality to be foregrounded through transmitting individual qualities of voice. Television takes the process much further by making people visually available, and not in the frozen modality of newspaper photographs, but in movement and action.[95]

[93] See generally, J Nancy, *The Ground of the Image,* (J Fort trans., Fordham University Press 2005)
[94] Douzinas, 'A Legal Phenomenology of Images' in O Ben-Dor, *Law and Art: Justice Ethics and Aesthetics,* (Routledge 2011) 248
[95] N Fairclough, *Media Discourse,* (Edward Arnold 1995) 38

The manner through which these subjects are represented all act as signifiers in the construction of that particular sign, but the method of transmission is not only important for establishing its connection with individuals or social groups, but also establishing its modality. Modality refers to the truth-value of the sign,[96] and, while interpreting the work of Pierce, Hodge and Kress proposed three kinds of modalities: actuality, (logical) necessity and (hypothetical) possibility.[97] It is worth noting that this conception of modalities refers to the relationship of these signs to reality. This thesis contends that the concept of modality is closely linked to the channel of transmission, but is not as simplistic as observed previously by Fairclough. Although the press may be less personal, the truth value of this accurate medium would be related closer to actuality, whereas television and film, although more personal, would be perceived as having less of a truth-value and may be read as more hypothetical or symbolic. However, that does not diminish the power of these cultural texts in transmitting core messages and representing the lawyer in particular ways. It means that the press has the ability to represent a more accurate and diverse image of the profession in the mind's eye.

Claude Lévi-Strauss, in his work *Structural Anthropology,*[98] explains how the cultural legacy of popular and public sources can be observed through the establishment and perpetuation of the sign in the social consciousness.[99] Lévi-Strauss has stated that once a sign has established itself in the public mind, it

[96] R Hodge and G Kress, *Social Semiotics,* (Polity 1988) 29
[97] *Ibid*, 26
[98] C Lévi-Strauss, *Structural Anthropology*, (C Jacobson & B Grundfest Schoepf trans. Penguin 1972)
[99] *Ibid,* 91

cannot be easily changed or modified.[100] This is an important consideration for this thesis, because this conception of cultural anthropology suggests that establishment of the sign during the nineteenth century, or earlier, may have had a distinct impact upon the representation of the lawyer in contemporary cultural texts.

This study of semiotic theory, particularly structural linguistics, underpins this work as a means through which the construction of signs and symbols can influence popular understandings of the lawyer in popular culture. This work does not seek to undertake a complete semiotic analysis of the press, but instead draws upon this discipline as a way through which to explain the construction of the image of the barrister and lawyer through textual sources.

The visual image is far easier to define due to the immediate association of the phrase 'image' with the 'visual'. Douzinas defines the image as "the foundation and essence of visual representation, such as icons, pictures, photographs, artworks"[101] and that a "painting or sculpture becomes available to us through its imagistic presentation which offers itself to the world".[102] The visual image must be read in a similar way to how textual sources must be read, the study of visual culture is the way in which we can read images to analyse "what the image means and how that meaning is communicated".[103] Therefore, the definition of the visual image is not merely the visualisation of an object but the visualisation of object and the meanings it intends to transmit.

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[100] *Ibid*
[101] Douzinas, 'A Legal Phenomenology of Images' in O Ben-Dor, *Law and Art: Justice Ethics and Aesthetics,* (Routledge 2011) 247
[102] *Ibid*
[103] R Howells, and J Negreiros, *Visual Culture,* (2nd edn, Polity Press 2012) 1

The exploration and examination of the image is an area that has undergone a large amount of research due to the dramatic increase of the visual image in society.[104] An example is clearly the rise of the internet and the portability of technology. Consider social media and the smartphone. Advertising surrounds us on these platforms and the visual image is more prevalent in our lives than ever. We are surrounded by the visual. It is this proliferation of the visual in society that led scholars such as Sherwin,[105] Galanter[106] and Asimow[107] to define the law as going 'pop' (or becoming popular) in the mid-1980s. However, the visualisation of society in the late nineteenth century demonstrated the popularisation of law far earlier than discussed by these influential scholars.[108] The development of photomechanical reproduction towards the end of the period also had a major influence on the permeation of the visual image of the law throughout nineteenth century society.[109]

The Narrative Nature of Law

This thesis also argues that the law is narrative, and it is these narrative characteristics that can make law stories so newsworthy. In order to ground these later arguments in scholarship and theory, this section will explore how law can be defined as a narrative and, due to these narrative characteristics, can be read as literature or through the critical lens of narratology. As this thesis uses content

[104] *Ibid,* 4
[105] RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002)
[106] M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)
[107] MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533
[108] The popularisation of law, legal process, crime and punishment can be seen generally in R Crone, *Violent Victorians,* (Manchester University Press 2012); J Rowbotham and K Stevenson, (eds) *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (Ohio State University Press 2005)
[109] See also G Beegan, *The Mass Image: A Social History of Photomechanical Reproduction in Victorian London,* (Palgrave Macmillan 2008); R Crone, *Violent Victorians,* (Manchester University Press 2012)

analysis as a component of its methodology, the narrative aspects of law and legal reportage need to be considered in order to frame later readings of press texts. This concept of the law as narrative can also inform later arguments based around the reading of the press as a cultural text and the press as a source of mass popular culture. Finally, this thesis will examine what themes existed in the representation of the barrister in the nineteenth century press, to compliment existing cultural scholarship on the lawyer in popular culture.

It can be argued that law has a number of narrative characteristics.[110] For the purpose of this work, the definition of narrative is, in a narrow sense, the storytelling features of actions that occur within the law and the legal process. Jackson refers to this as micro-narratives.[111] To put it simply, all legal procedure is based on lived experiences, or phenomena.[112] In order to recount these phenomena, the individual will construct this information based around narrative drivers most familiar to them, or the universal grammar of the narrative.[113] As Brooks recently outlined, the study of the narrative is the study of the "universal grammar of how people put things together with beginnings, middles, and ends."[114]

The legal process and the courtroom act as an ideal setting for narration within legal discourse, and the development of emergent narratives. The courts and their respective legal officers also use narrative forms to communicate,

[110] P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale University Press 1998) 14
[111] B Jackson, 'Anchored Narratives' and the Interface of Law, Psychology and Semiotics' (1996) 1 *Legal and Criminal Psychology* 33
[112] See generally, D Langdridge, *Phenomenological Psychology: Theory, Research and Method,* (Pearson Prentice Hall 2007) and K Dahlberg, H Dahlberg and M Nystrom (eds.) *Reflective Lifeworld Research,* (2nd edn, Studentlitteratur 2008)
[113] C Couch, 'Teaching the Narrative Power of the Law' *UVA Lawyer, law.virginia.edu,* <*www.law.virginia.edu/HTML/alumni/uvalawyer/f05/humanities.htm*> accessed 28 Nov 2016
[114] *Ibid*

explain, and reconceptualise legal concepts. Evidence is received in a narrative form, narrative structures are interrogated, and new narratives emerge from such examinations. All aspects of law rely on narrative characteristics, including legal education. Legal education has traditionally been based around appraising legal materials, and adapting or critically applying existing narratives to their own emerging narratives.

This definition of narrative also draws upon the work of Baron and Epstein,[115] and transposes their definition of narrative into a more rigorous cultural modality. Therefore, this conception of the narrative also considers how the process of organising legal information, which is produced and received by lawyers and non-lawyers, can be transferred into a "culturally meaningful"[116] form. Whether it is cognisant within the public psyche or not, there is a distinct public awareness of 'storytelling' being a fundamental part of legal procedure.[117] As Baron and Epstein have noted "witness accounts of events, for example, or clients' explanations of their legal problems are often perceived in this way."[118] Although these authors are writing from an American legal perspective, it is clear that the manner through which the legal process is conducted also draws parallels to the English legal tradition due to their common law structures.[119]

Baron and Epstein also consider how individuals outside of the legal profession often recount legal testimony, highlighting how observers repeatedly draw upon a narrative style to describe legal information. For example, they

[115] JB Baron and J Epstein 'Is Law Narrative?' (1997) 45 *Buffalo Law Review* 142
[116] *Ibid,* 147
[117] P Brooks, 'The Law as Narrative and Rhetoric' in P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale University Press 1998) 14
[118] *Ibid* 142
[119] H Gladfelder, *Criminality and Narrative in Eighteenth-Century England: Beyond the Law,* (Johns Hopkins University Press 2001) 2

outline how "someone observing a trial might describe a witness's testimony along the following lines - he told his story about the accident, that he was going to the store and saw the defendant run the light and hit the plaintiff."[120] This observation of the reception and reproduction of in-court and legal testimony demonstrates how the cultural representation of law often takes a narrative form.

Brooks has also indicated how narrative is "one of our large, all-pervasive ways of organising and speaking the world-the way we make sense of meanings that unfold in and through time."[121] The placement of law, lawyers and legal procedure into narrative form and the organisation of principal characters into – pseudo-literary tropes, [122] allows non-legal producers of cultural texts and consumers of these sources to make sense of legal procedure. The methods through which these 'stories' are told is limited by procedure and technicalities, but their reproduction in print or on film allows the individual creator of to draw upon these narrative forms to create a whole macro-narrative related to a particular subject matter. These narrative forms, tropes and character models are relevant for this research aim as cultural producers often draw upon these narrative forms to 'tell the story' of cases and draw upon literary tropes to present legal subject matter in an accessible form. These narrative tropes make the legal stories accessible and can assist in the construction of a public image. An awareness of these tropes and narrative forms will assist in ascertaining the representation of the bar in the nineteenth century press.

[120] JB Baron and J Epstein 'Is Law Narrative?' (1997) 45 *Buffalo Law Review* 142
[121] P Brooks, 'The Law as Narrative and Rhetoric' in P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale University Press 1998) 14
[122] The word trope here is defined as regularly occurring and repeating artistic, literary and metaphorical themes and motifs across an individual media or numerous cultural texts.

Therefore, a wider definition of narrative can also be given as the emergent narrative of the process as a whole. Jackson refers to this as the macro-narrative.[123] This could be the story of a criminal case, from the committal of an offence, to detection and arrest, to trial, and sentence. At individual points within this process, different aspects of the narrative emerge (the micro-narrative) and can affect the macro-narrative. Within this wider definition, the courtroom is a site of conflict and a space of on-going collaboration by various actors within the process. Whether it is the barrister, prosecution and defence, the defendant, witnesses, judges, individuals in the jury box or public gallery, or even the legal system itself, the individual micro-narratives that may emerge can effect the creation of the macro-narrative around a case before the court.

As Jackson has argued, the courtroom is a site of "contest between competing narratives, which will be resolved on the criteria of relative similarity to narrative typification."[124] Jackson outlines narrative typification as the "evaluative judgements based on their perceived likeness to collective, prototypical images of criminals."[125] These emergent narratives can also be influenced by individual and societal concepts of justice; of right and wrong, and of good or evil, of retribution and absolution. While these may be open to a subjective interpretation, the ability to reduce legal narratives to such binary leitmotifs means that the conflict that is observed in the courtroom, combined with the characteristics and motifs readily

[123] B Jackson, 'Anchored Narratives' and the Interface of Law, Psychology and Semiotics' (1996) 1 *Legal and Criminal Psychology* 33
[124] *Ibid* 28
[125] *Ibid* 32-33

found within a trial setting, that law is the perfect subject for cultural representation and for examination through narratology. [126]

The study of narrative in law is still in its infancy but it is argued here that it is fundamental in understanding the legal process and even its relationship to cultural texts. As Burns has stated, "narrative forms the deep structure of human action. In other words, the bedrock of human events is not a mere sequence upon which narrative is imposed but a configured sequence that has a narrative character all the way down."[127] In order to understand how cultural producers and society engages with legal subject matter, the narrative characteristics of law must be considered.

This connection between law and literature has been recognised, and there has been a substantial increase in scholarship based within the law and literature movement. This discipline examines "legal studies after the cultural turn"[128] to go beyond the black letter mode of traditional legal analysis and to explore the influence of law upon cultural texts and the literary aspects of legal texts. For example, Posner's[129] work looks at the relationship between law and popular culture and the importance of the law and literature movement as a source for jurisprudence and legal rhetoric. Posner has also argued that the story is "an important element in law"[130] and that literary theory is a way to interpret such stories. [131] Williams has analysed the representation of law and

[126] P Perron, *Narratology and Text,* (Uni of Toronto Press 2003) 3
[127] R Burns, *A Theory of the Trial,* (Princeton University Press 1999) 222
[128] L Moran, 'Legal Studies after the Cultural Turn: A Case Study of Judicial Research' in S Roseneil and S Frosh (eds), *Social Research after the Cultural Turn,* (Palgrave Macmillan 2012) 124
[129] R Posner, *Law and Literature,* (3rd edn, Harvard University Press 2009)
[130] R Posner, 'Legal Narratology' (1997) 64 *U. Chi. L. Rev.* 740
[131] *Ibid*, 741

jurisprudence in literature from the 1890s through to recent cultural sources.[132] In *Law and Literature: Journeys From Her to Eternity,* Aristodemou[133] uses literature as a facilitator for a better understanding of the law and its relationship with society and its mythic origins. Brooks and Gewirtz[134] have also published within the *law in literature* movement, focusing specifically on the narrative nature of law. All of these works seek to draw upon literary theory to examine the legal aspects of works of literature (Law in Literature) and also the narrative or literary qualities of legal texts (Law as Literature).

Specifically, *law as literature* scholars have also explored the narrative qualities of law, and has argued how legal texts can be analysed in a manner not dissimilar to literature.[135] This is an acknowledgement that the universal grammar of narrative can apply to legal texts, and that adoption of narratology, or at least forms of literary analysis, can enrich our understanding and interpretation of law.[136] This acknowledgement of the narrative characteristics of law, make law stories excellent subjects for cultural representations as they can be considered ready-made stories to be told.

Law is an inevitable source of human-interest 'stories' and frequently contain subject matter that can be macabre, emotive, disturbing, satisfying, and mysterious. Law has the ability to be represented in particular narrative modes,

[132] See generally, M Williams, *Empty Justice: One Hundred Years of Law, Literature and Philosophy,* (Cavendish 2001)
[133] See generally, M Aristodemou, *Law and Literature: Journeys from Her to Eternity,* (OUP 2000)
[134] See generally, P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale University Press 1998)
[135] See generally, P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale University Press 1998); M Aristodemou, *Law and Literature: Journeys from Her to Eternity,* (OUP 2000); K Dolin, *Critical Introduction to Law and Literature*, (reissue edition, CUP 2011); I Ward, *Law and Literature: Possibilities and Perspectives,* (CUP 1995) and S Chibnall, (ed) *Law-and-Order News: An Analysis of Crime Reporting in the British Press,* (reprint, Routledge 2001)
[136] R Dworkin, 'Law as Interpretation' (1982) 60 *Texas L. Rev.* 527

and these include dramatic, cultural and abstruse narratives, which when represented by cultural texts, can draw parallels to fiction and other sources of popular culture. Needless to say that other leitmotifs, more commonly found in literature can also emerge through narrative analysis of the law. This can include heroes and villains, victims and assailants, the powerful and the powerless, the good and the bad, and the virtuous and corrupt.

It could be argued that this was particularly apparent in the press of the nineteenth century. The press culture of the period frequently depicted legal cases in a narrative style, often giving cases titles akin to mystery fiction. A particularly prominent example is 'The Pimlico Mystery' or 'The Pimlico Poisoner Case', more formally known as *R* v. *Bartlett*.[137] These *causes célèbres* were treated in the press as fiction, and this narrative style, coupled with themes of justice, led to the emergence of heroes and villains.[138] The defendant Mrs Adelaide Bartlett and her defence counsel Edward George Clarke became press heroes and made the transition from legal culture to popular culture through the press. During the period, themes and narrative styles were attached to the legal process, especially to criminal cases.[139] This style of representation encourages the notion of the law and the legal process as taking a narrative form, and subsequently intensifies law's connection with themes that are more commonly found in popular cultural texts. The manner through which these details are

[137] M Farrell, 'Adelaide Bartlett and the Pimlico Mystery' (1994) 309 *British Medical Journal,* 1720
[138] *Ibid*
[139] See further examples of the sensationalist and narrative nature of criminal cases in J Rowbotham and K Stevenson (eds), *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (State University Press 2005)*;* J Rowbotham and K Stevenson, *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels,* (Ashgate 2003) and R Sindall, *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* (Leicester University Press 1990)

recounted (by cultural texts) and received (by those who engage with these texts) are constructed in a narrative form.

Lawyers are frequently reduced to binary narrative motifs of hero and villain, as law itself is commonly reduced to a binary form in many aspects of the legal process as a result of its narrative characteristics. To the public, namely those individuals who have no familiar relationship with the law, it is easy to view the law in binary terms of defence and prosecution, innocent and guilty, criminal and victim. It is therefore obvious that the motifs of hero and villain have featured heavily in cultural texts. Hero characters are frequently associated with those who are good and seeking to do justice for society or for those wrongly and unfairly accused. Heroes repeatedly go beyond their obligations to help those wrongly accused or secure convictions for the social good. Villains are those individuals or characters who are a threat to justice, a danger to legal process and a menace to the safety of society. They are sometimes corrupt defenders or criminals themselves. However, there are clear nuances within these themes and motifs.

In contemporary cultural texts,[140] lawyers are often considered through these motifs. However, the motifs used are far more diverse than just hero or villain. An example from modern scholarship is the work of John Owens. Owens divides the lawyers in John Grisham's body of work into three categories, the hero, the street lawyer and the pathfinder.[141] The hero is described as the Atticus Finch-type character, who is a crusader for justice, equality and fairness in an

[140] See MR Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533*,* MR Asimow, 'When Lawyers were Heroes' (1996) 30 *USF L. Rev.* 1132; C Menkel-Meadow, The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft' (1999–2000) 31(1) *McGeorge L. Rev.* 1; R Posner, *Law and Literature,* (3rd edn, Harvard University Press 2009) and JB Owens, 'Grisham's Legal Tales: A Moral Compass for the Young Lawyer' (2000–2001) 48 *UCLA L. Rev.* 1431

[141] JB Owens, 'Grisham's Legal Tales: A Moral Compass for the Young Lawyer' (2000–2001) 48 *UCLA L. Rev.* 1431

often-corrupt system but always adhering to the moral obligations of his profession and society. Conversely, the street lawyer is willing to do anything to obtain justice for his client, even if this means sacrificing his own moral good, whereas the pathfinder is willing to sacrifice himself for justice and the greater good.[142] The motifs and themes used to describe lawyers are obviously diverse, but the themes of hero and villain constantly emerge. This thesis will examine what themes existed in the representation of the barrister in the nineteenth century press, to compliment existing cultural scholarship on the lawyer in popular culture.

The narrative characteristics of law also have their basis in the development of the common law. Until 1600s legal education had largely been conducted through an oral tradition [143] and pleadings had generally been conducted through oral means rather than in a written form. [144] It can be argued that the legal processes in England and Wales has always relied on the spoken rather than the written. As Woolf has argued

> Common lawyers were well acquainted with the study and criticism of oral testimony. It is true that the English judicial system steadily relied upon - and generated - increasing quantities of written evidence, case records and legal reports, but the transition to a system dependent predominantly upon the written rather than the spoken was neither sudden nor thorough, and oral testimony remains at the centre of the trial system even today.[145]

While this work cannot explore procedure across a thousand or more years of legal history, it is widely acknowledged in legal history scholarship that oral testimony has a long established history. From the 'moots' or 'folk-assemblies' of

[142] *Ibid*
[143] EG Henderson, 'Legal Literature and the Impact of Printing on the English Legal Profession' (1975) 68 *Law Lib. Jour.* 291
[144] DJ Seipp, 'The Structure of English Common Law in the Seventeenth Century' in WM Gordon and TD Fergus, *Legal History in the Making,* (Hambledon Press 1991) 62
[145] DR Woolf, 'The "Common Voice": History, Folklore and Oral Tradition in Early Modern England' (1988) 120 *Past and Present* 39

the Anglo-Saxon period,[146] the establishment of the jury in the thirteenth century,[147] to the rise of the narratores of the fourteenth century,[148] all were based on examining evidence received through narrative oral modes, and assessing their credibility to establish the resultant overarching macro-narratives within the cases before them.

The oral tradition within legal procedure was important to receive evidence from and engage with a largely illiterate populace prior to the nineteenth century. Woolf also argues that this was particularly important in the criminal law. He states, "Well into the eighteenth century…the mechanics of a criminal jury system which still depended heavily upon verbal information and accusation, and on memory or even hearsay as evidence, ensured that those skilled in matters of the law developed critical attitudes to the oral and written words alike."[149] It can be argued that this dependence on oral evidence from illiterate and literate communities would have seen narrative forms being used to give evidence due to the universal grammar of the narrative that was understood by all of society.

Since the arrival of Christianity in England, people were aware of the universal grammar of the narrative through storytelling. This was due to religion being the one thing that all of society had in common. While the rituals and masses may have been conducted in Latin, wider engagement with biblical stories through sermons, and homily's would have been delivered in the common tongue,[150] as would various dramatic performances of religious subject-matter at

[146] J Seutter, *Let Justice be Done,* (Anchor Academic Publishing 2015) 4
[147] RV Turner, 'The Origins of the Medieval English Jury: Frankish, English, or Scandinavian?' (1968) 7(2) *Journal of British Studies* 3
[148] JH Baker, *An Introduction to English Legal History,* (4th edn, Butterworths 2002) 76
[149] DR Woolf, 'The "Common Voice": History, Folklore and Oral Tradition in Early Modern England' (1988) 120 *Past and Present* 40
[150] ASG Edwards, *A Companion to Middle English Prose*, (DS Brewer 2004) 156-157

the numerous saints days, market days and festivals that occurred throughout the year.[151] The public were also aware of narrative forms through various wall paintings and murals within church buildings,[152] which were often in a sequential pictorial form.[153] Decorated stained glass windows also provided the opportunity for the public to engage in biblical stories and narrative forms.[154] It can therefore be argued that all those called before the court since the birth of the common law possess the universal grammar of narrative, and with little knowledge of the emerging formal legal procedure of at the birth of the common law, law inevitably developed narrative characteristics. This long history of narrative in legal process and the narrative characteristics of law in England and Wales meant that law was always destined to have intimate relationship with cultural texts, and this has carried forward into the nineteenth century press. An awareness of these narrative tropes is important for the examination

Historical Context

In the following section, the historical context of this thesis will be outlined to position this work in the existing historical research and further demonstrate the originality of this scholarship. This will include a discussion of the popular attitudes held towards the law and the lawyer in the periods prior to the nineteenth century in order to accurately assess the popularising affect of the press. It will present an analysis of changes that occurred within the press and society that can contribute to later analysis around the emergence of press

[151] MD Anderson, *Drama & Imagery in England Medieval Churches,* (CUP 1963) 51
[152] R Rosewell, *Medieval Wall Paintings in English and Welsh Churches,* (Boydell Press 2008) 158 and R Rosewell, *Medieval Wall Paintings,* (Shire Publications 2014) 4
[153] R Rosewell, *Medieval Wall Paintings in English and Welsh Churches,* (Boydell Press 2008) 188
[154] R Rosewell, *Stained Glass,* (Shire Publications 2012) 6 and H Arnold, *Stained Glass of the Middle Ages in England and France,* (eBook repr. Library of Alexandria 1918) section 5

culture of nineteenth century England. It will also examine the history of the bar during the period of study to explore whether the nature and quantity of their work changes.

The Representation of the Law and the Lawyer in Cultural Texts Prior to the Nineteenth century.

This section will summarily explore the representation of law and lawyers in cultural texts prior to the Victorian era and evaluate the popular characteristics of the law in the preceding periods.[155] While the focus of this research is the representation of the barrister in press of the nineteenth century, an understanding of the depiction of the law and lawyers in historical cultural texts is significant to provide a fair assessment of the 'popularising' characteristics of newspapers during the period of this study. This section will not explore and examine every individual representation of the lawyer in these pre-Victorian cultural texts, but will offer some pertinent examples of the cultural representation of law and lawyers, so as to provide an understanding of the development of the lawyer as central to cultural texts.

While the subject of this thesis is the barrister in the nineteenth century, this section refers to the representation of the lawyer in historical texts. This is due to the historical evolution of the legal professions in England and Wales. The barrister as a recognisable and named branch of the legal profession emerges in the sixteenth century being proceeded, for example, by pleaders, serjeants,

[155] Here the phrase lawyer is used to refer to the various legal representatives depicted in cultural texts, in order to demonstrate the established history of the legal practitioner in cultural texts.

attorneys and essoiners.[156] Causidicius[157] is a term that is also used to describe these advocates and shows the acknowledgement of these differing roles undertaken a similar activity. Due to the complex evolution of the legal profession through the medieval period and the various different roles that emerged within the developing common law,[158] the term lawyer is used as an accessible term for those that were responsible for undertaking legal work during the historical periods presented. It can certainly be argued that the term lawyer is used interchangeably with those responsible for advocacy and the various sources listed in this section also demonstrate the central role that advocates play in the cultural interplay between lawyers and the public.

As mentioned earlier, it is a common academic proposition in the contemporary scholarship of law and popular culture that the law became popular during the 1980s due to the changes in technology and the forms of cultural texts through which they were represented.[159] However, law has always been a part of the cultural landscape, and there has been a legal culture in existence throughout much of history. The communal foundations of the common law,[160] namely the moots and folk-assemblies of the Anglo-Saxon age, and the Manorial, Leet, Hundred, and Shire Courts of the medieval age,[161] meant that the public had a local cultural relationship with the law. Law and legal administration were part of these local cultures and, by its very essence, were an aspect of popular culture. This is also true in later historical periods. Banks has outlined how, until the first

[156] H Cohen, *A History of the English Bar and Attornatus to 1450,* (repr. The Lawbook Exchange 2005) 279 and PA Brand, 'The Origin of the English Legal Profession' (1987) 5(1) *Law and History Review,* 38
[157] PA Brand, 'The Origin of the English Legal Profession' (1987) 5(1) *Law and History Review,* 40
[158] *Ibid* 32
[159] See RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002) 17
[160] J Seutter, *Let Justice be Done,* (Anchor Academic Publishing 2015) 4
[161] J Briggs, C Harrison, A McInnes, and D Vincent, *Crime and Punishment in England: An Introductory History,* (UCL Press 1996) 14-28

half of the nineteenth century, justice was a very particular aspect of local culture, arguably more so than a national culture of the common law.[162] The local jurisdictions of the stannaries', the court leets, the swainmotes, and the verderers' court, unstaffed by legal professionals, passed judgement based on law and established culture and custom.[163] This intersection between culture and law demonstrates how the communal groups of pre-industrialised society engaged with law in a personal manner. To argue that there was no legal culture prior to the 1800s is a falsehood, instead it is argued here that the popular nature of the law was just far more localised than what emerged during the 1900s.

Outside of these local courts, the general public were less aware of the national common law. They were also less aware of large-scale national issues and legal affairs. The manner through which cases were conducted in the central legal institutions in the nations capital and within the Royal Courts were far removed from the understandings of law and the legal process found by society in the provinces. The common law was the realm of the landed; those land owners who had need for lawyers to protect their interests,[164] whereas local legal processes and customs were a fundamental part of feudalism and subservience to land lords. The law as experienced by the poor was vastly different to law experienced by the landowners and wealthy. It is this disjunction that is so important for this work as the changes indicative of the industrial revolution transformed the social and cultural landscape of England, providing the opportunity to create a truly common law through the enlightenment of the populace. It is argued that the press can be seen to unite a legal culture, between

[162] S Banks, *Informal Justice in England and Wales, 1760-1914: The Courts of Popular Opinion,* (Boydell Press 2014) 6
[163] *Ibid*
[164] J Hudson, *Land, Law, and Lordship in Anglo-Norman England,* (OUP 2004) 2

the elite and mass areas of society by exposing key processes and individual roles within the law. It is the nineteenth century that did this to the greatest degree.

Prior to this unification in legal culture, law was merely witnessed in action, understood through existing customs and values, or related to biblical teaching. If we consider a legal cultural text that was consumed aurally by most of society, the bible would arguably be the most prevalent. The Ten Commandments and further biblical commands (for example, Leviticus) can be argued to be the founding basis through which public behaviour was governed, and was received aurally from the pulpit and visually from the parish church. Where any rights or obligations afforded through feudal servitude were outlined and received by landlords on behalf of the King or the by Church (such as tithes[165]). The understanding of these was transmitted by custom and culture, not through textual engagement with the law.

This popular nature of the law throughout English legal history is also evidenced by the very public punishment administered during the majority of the last millennium. Webb has outlined how public execution has been an important aspect of culture since the Roman occupation[166] and Gatrell has talked extensively about public engagement with execution from 1770 to 1868.[167] Gatrell has discussed how these executions were public spectacles,[168] not the deterrent there were intended to be.[169] It was not just executions that were public, but various methods of punishment were conducted in public; the stocks, pillories,

[165] RC Palmer, *Selling the Church: The English Parish in Law, Commerce, and Religion, 1350-1550,* (University of North Carolina Press 2002) 32
[166] S Webb, *Execution: A History of Capital Punishment in Britain,* (The History Press 2011) 8
[167] See generally, VAC Gatrell, *The Hanging Tree,* (OUP 1996)
[168] *Ibid,* 610
[169] S Webb, *Execution: A History of Capital Punishment in Britain,* (The History Press 2011) 8

and whipping posts are all examples of this.[170] There was also a clear intersection between the executions and punishments as an example of lived cultural experiences and the subsequent cultural texts that emerged to augment these experiences. Gatrell explores the "plebeian texts" that emerged around the gallows and pillories; including broadsides, execution sheets, and ballads.[171] This emergence of these printed resources, much like the criminal flysheets discussed later, demonstrate a growing engagement with legal subject matter. It can be argued that this was due to the narrative characteristics of these law stories that gave the public something to engage with and gave these stories over to the cultural turn. It is also clear that law had a central and popular place in the culture of England and Wales.

Law, the legal process, and lawyers also appeared in various cultural texts throughout history. The elite characteristics of the law throughout history meant that lawyers have always enjoyed power and influence within society.[172] This influence, although vital to the functioning of society,[173] inevitably made lawyers the subject of cultural representation and the target of criticism.[174] Therefore, lawyers have been represented extensively in cultural texts throughout history[175] and have been depicted in a myriad of ways. Lawyers emerge in works by seminal cultural creators such as Juvenal,[176] Chaucer,[177] Shakespeare,[178] and

[170] W Andrews, 'People in the Pillory' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 202
[171] VAC Gatrell, *The Hanging Tree,* (OUP 1996) 109-223
[172] M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005) 3
[173] *Ibid*
[174] D Sugarman and WW Pue, 'Introduction' in WW Pue and D Sugarman (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003) 2
[175] See generally, WW Pue and D Sugarman (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)
[176] Juvenal and Persius*: Satires,* (HTML eBook, Fordham University) <http://www.fordham.edu/halsall/ancient/juvenalpersius-intro.asp> accessed 8 April 2014
[177] See generally, G Chaucer, *The Canterbury Tales,* (Penguin Classics 2003)

Gay.[179] Nevertheless, the pervasive nature of these cultural texts throughout society need to considered in order to judiciously consider the popular characteristics of law and lawyers in pre-industrialised societies, in order to establish a base from which to measure the influence of the press on the popularisation of the barrister during the period of study.

Juvenal was a satirical verse poet in the second century AD Roman Empire, and to any scholar of Roman literature or researcher into the genre of satire, "Juvenal perhaps more than anyone else is responsible for the modern concept of satire"[180] having been considered to have changed the genre more than any other.[181] Juvenal wrote upon corruption, immorality, and perversion he perceived in Roman society, and jurists featured in his work. Lawyers were portrayed as pompous and vain. The lawyer Matho in 'Satire 1' is described using the term "Causidici"[182] or Causidicus, which is translated and interpreted to mean advocate or pleader with negative connotations,[183] much as we would describe a devil's advocate today. He also uses sarcasm to refer to another lawyer as great man or lordship, demonstrating the hypocrisy between his role and his behaviour.[184]

Juvenal also commented upon the relative wealth of lawyers in the Roman Empire, and attacked Matho for his pompous nature, riding in a litter that take up the space of two.[185] This derision of the lawyer's affluence and pomp is not unfamiliar, however, much like sources from England prior to the nineteenth

[178] See generally, W Shakespeare, *The Complete Works of William Shakespeare,* (OUP 2005)
[179] See generally, J Gay, *The Beggar's Opera and Polly,* (OUP 2013)
[180] SM Braund, *Juvenal Satires: Book I,* (CUP 1996) 1
[181] *Ibid*
[182] *Ibid,* 34
[183] *Ibid*
[184] *Ibid,* 84
[185] *Ibid*

century, the literate and affluent elite would have consumed this text exclusively. Only the intelligentsia and the wealthy consumed Juvenal's work in England during the seventeenth and eighteenth centuries,[186] which is no real surprise due to the fact that until it was translated in the late seventeenth century, it was only available in its original Latin.[187] This distinct lack of access to the written text by the general populace permeates the discussion within this section, the subsequent section on the history of the press, and mirrors the situation, to some degree, the early nineteenth century.

The works of Geoffrey Chaucer and William Shakespeare depict and examine lawyers, their ethics, and their professional practice. It is a common academic supposition by literature scholars and literary historians that the works of Chaucer and Shakespeare represent the pre-eminent literary achievements of their respective time periods, and are considered to be significant social commentators on their own contemporary societies. It is therefore no surprise that these writers critique lawyers and evaluated legal themes such as the law itself, justice, lawyers, and mercy.

In Chaucer's most-famous work, *The Canterbury Tales,*[188] a lawyer acts as one of the principal pilgrims on the journey to Canterbury. Chaucer's 'Serjeant at Law' or the 'man of laws' is clearly represented as a sober character in comparison to the other pilgrims,[189] and attention is given to his homely clothing for a man of his station.[190] Thompson draws parallels between this modest and homely description to some Victorian legal celebrities, such as Henry, Lord

[186] AW Lee, 'Who's Mentoring Whom?' in AW Lee (ed) *Mentoring in Eighteenth Century British Literature and Culture,* (Routledge 2016) 201
[187] *Ibid*
[188] G Chaucer, *The Canterbury Tales,* (Penguin Classics 2003) l
[189] B Seaman, 'Lawyers in Chaucer's Time' (1982) 6(2) *ALSA Forum* 187
[190] *Ibid*

Brougham, whose frugal living "in their early days was not without its good effect in after years."[191] Seaman has suggested that the "Man of Law finds his enthusiasm pricked more by the prospect of memorising statutes than playing cards."[192]

The Serjeant is described by his success in his professional endeavours but also criticised for his ability to look busy even though he is not, demonstrating his penchant for procrastination,[193] or even his wise approach to seeking business through a 'false' demonstration of his success. As Thompson so eloquently describes it, his busyness in business is "to impress the lay mind with becoming awe."[194] It can be seen that this displays a proclivity of dishonesty, cunning, desperation, or even just laziness in this representation.

It is also argued that the contrast between the grossness of the Cook's story and the serjeants tale "stands out in most pleasant relief."[195] The Cook's tale generally precedes the Serjeant's tale, and is the basest of all the tales within the collection. By contrast, the Serjeant's tale is sweet and gracious, and his wise words make up a pleasing narrative. It can be argued that the ordering of these tales, was to emphasise the difference in use of language and narrative between the debase character of the cook and the eloquent lawyer. This further emphasises the association between the narrative characteristics of law and its value as a creative product.

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[191] WH Thompson, 'Chaucer's Man of Law' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 41
[192] B Seaman, 'Lawyers in Chaucer's Time' (1982) 6(2) *ALSA Forum* 187
[193] *Ibid*
[194] WH Thompson, 'Chaucer's Man of Law' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 39-40
[195] *Ibid*, 42-43

Finally, Thompson also highlights criticism of the Serjeant through his use of Norman-French within the story.[196] At the time of writing, England had been involved in a long and protracted Anglo-French conflict, so England was awash with anti-French feeling. Thompson argues that this anti-French feeling led to all pleas being conducted in English during Chaucer's lifetime.[197] Therefore, the Serjeant's use of Norman French is antiquated at best, and at worst, offensive to the reader and audience representing the lawyer as an untrustworthy character.[198] Thompson also argues that Chaucer's Man of Law is a typical lawyer from the fourteenth century.[199] He argues that this representation of the lawyer is drawn from Chaucer's own experience of reading law at the Temple[200] and his involvement in certain legal suits.[201]

It can be argued that the popularity of this cultural text during the medieval period is beyond question. The British Library holds in excess of 80 copies from the 1500s, which is indicative of the popularity of the text.[202] However, the reading or recitation of Chaucer's Tales by those outside of the nobility must be questioned.[203] As a cultural text that would be largely consumed by the elite, the Canterbury tales is indicative of a text of high culture rather than as a signifier of popular culture. This is symptomatic of texts during the medieval period, but the inclusion of a lawyer is also revealing as to the importance and popularity of legal subject matter within the culture of society. Lawyers would have been familiar to

[196] *Ibid*, 43-44
[197] *Ibid,* 43
[198] *Ibid,* 44
[199] WH Thompson, 'Chaucer's Man of Law' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 38
[200] *Ibid*, 41
[201] *Ibid*, 42
[202] British Library, 'The Canterbury Tales by Geoffrey Chaucer' *bl.uk* <https://www.bl.uk/collection-items/the-canterbury-tales-by-geoffrey-chaucer> accessed 27 Nov 2016
[203] D Pearsall, *The Canterbury Tales,* (G. Allen & Unwin 1985) 294-295

the elite, who would have been the largest consumers of this text, but if the tales were read as part of the oral culture outside the elite, there were signified 'anchors' through which the public at large could engage with these men of law due to the communal popularity of law in the fourteenth century.

The public image of lawyers in the medieval period was congruent with the representation of Chaucer's Serjeant. Jonathan Rose has argued as to the public image of lawyers in the medieval period stating how complaints about lawyers were commonplace and that they were criticised for their excessive litigation caused by their perceived excessive numbers who created a demand for their services who were prone to misconduct or incompetence.[204] Musson also argues that the representation of anthropomorphised lawyers in medieval illuminations can be read as lawyers engaged in combat, poking fun at the adversarial system, and comically embodying the idea of being armed with laws.[205] Musson also argues that while this would draw upon these adversarial characteristics, it would also reflect back positively on the nature of the King's power and authority.[206] Yet, while the authority of the King was reflected with some positivity, it still satirises the profession's adversarial characteristics. It is these individual characteristics that perpetuate through time and were continued in some degree through the Tudor age and into the Early Modern period. Yet, much like the representation of lawyer's outlined in Musson's work there is a complexity to them, a nuanced lens upon an evolving profession.

[204] J Rose, 'Medieval Attitudes toward the Legal Profession: The Past as Prologue' (1998) 28 Stetson L. Rev. 346
[205] A Musson 'Seeing Justice: The Visual Culture of the Law and Lawyers' in A Speer and G Guldentops, *Das Gesetz - The Law - La Loi*, (De Gruyter 2014) 720
[206] *Ibid*

The works of William Shakespeare also feature a number of characters related to the law or lawyers. It has been suggested that Shakespeare's legal knowledge is substantial enough to suggest a mature awareness of the law. The accuracy of legal subject matter is so noteworthy in Shakespeare's work that scholars have argued that he must have had some legal training.[207] As Massey puts it "his knowledge is not office sweepings, but ripe fruits, mature, as though he had spent his life in their growth."[208] Conversely, Clarke argues that this legal knowledge was acquired by his "wont to take his ease at the taverns, such as the 'Mitre' and the 'Devil' in Fleet Street…where legal moots and decisions of the judges must have been constantly debated and discussed."[209] Through whatever means Shakespeare acquired his legal knowledge is of little consequence for this work, but it is the proliferation of legal references in Shakespeare that is most interesting. His knowledge is, however, important in terms of the picture represented to the populace through his work.

Lord Campbell examined the legal references in Shakespeare's work, and found within twenty-three of his thirty-seven works there were references to the law, legal principles, and technical terms.[210] Throughout his work, Lord Campbell critiques the legal references within all of these works and finds a high degree of accuracy and complexity. Some examples include references to real property in *The Merry Wives of Windsor*[211] or the law of fine and recovery in *The Comedy of Errors,*[212] the statement for commencement of all deeds in *As You Like It*[213] or

[207] SW Clarke, 'The Law in Shakespeare' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 45
[208] G Massey, 'Unknown Article' cited in SW Clarke, 'The Law in Shakespeare' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 46
[209] *Ibid,* 47
[210] See generally, J Campbell, *Shakespeare's Legal Acquirements,* (Appleton and Co 1859)
[211] W Shakespeare, *The Complete Works of William Shakespeare,* (OUP 2005) 521
[212] *Ibid*, 291

the sale of measures in *The Taming of the Shrew.*[214] The proliferation of subject matter through Shakespeare's work demonstrates a broad, multi-disciplinary understanding of law and legal concepts.

One of the most recognisable legal issues to appear in Shakespeare's work is the Trial in *The Merchant of Venice.*[215] Portia disguises herself as Balthasar, Doctor of Laws, in order to plead mercy for her love Antonio. She delivers an impassioned speech about the quality of mercy and the importance of justice.[216] However, when this does not convince the court to relieve Antonio of his obligations, she resorts to trickery through her manipulation of the law. Shylock is told that he may take his 'pound of flesh,' but if he sheds one drop of Christian blood, his lands and goods are confiscated to the state of Venice. Although Portia clearly represents lawyers as moralistic and concerned with the quality of justice, their true skills are deception and legal chicanery to ensure that the end is achieved for their client or their own gains.

Both Chaucer and Shakespeare had close relationships with the legal profession. Chaucer is thought to have had a tempestuous relationship with lawyers[217] and due to the desire for entertainment at the Inns of Court, Shakespeare was directly exposed to the barristers profession. There have also been arguments raised around whether both of these seminal cultural producers received legal training.[218]

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[213] *Ibid*, 659
[214] *Ibid*, 29
[215] *Ibid*, 453-480
[216] *Ibid*, 473
[217] B Seaman, 'Lawyers in Chaucer's Time' (1982) 6(2) *ALSA Forum* 187
[218] WH Thompson, 'Chaucer's Man of Law' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 42 and SW Clarke, 'The Law in Shakespeare' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 46

Shakespeare's work was generally performed in London. Since the 1560s and the construction of custom-built playhouses, companies of players were effectively anchored to the capital and, whilst they did conduct tours of the provinces, there is very little known about the frequency and reach of these tours.[219] Nonetheless, Shakespeare's work, and the work of his contemporaries, was accessible to all classes of society, regardless of literacy, due to the performativity of the medium. Much like the oral tradition of the law, the theatre was a medium that had the ability to transcend class boundaries. However, this was only true for the public theatres in London, such as the Theatre, the Curtain and the Globe,[220] as these were accessible to all who had the admission fee. Other performances were undertaken in private theatres or other halls, such as Middle Temple Hall[221] or London Guildhall[222]. These private or municipal buildings would have been more restrictive on admissions, and not necessarily open to all of society.

Initially, it can be considered that the inclusion of legal subject matter was to appeal to those who had an interest in legal affairs, such as lawyers, judges, and other quasi-legal personnel. It is known that at least two of Shakespeare's plays were performed in the Inns of Court. *A Comedy of Errors* was performed in Gray's Inn Hall in December 1594,[223] and *Twelfth Night* premiered in Middle Temple Hall on Candlemas Day 1601.[224] There is also evidence to suggest that other plays were performed in the Inns during the Elizabethan and Jacobean

[219] W Shakespeare, *The Complete Works of William Shakespeare,* (OUP 2005), xxv-xxvi
[220] *Ibid*, xxviii
[221] *Ibid*, xxvii
[222] *Ibid*, xxviii
[223] W Andrews, 'Revels at the Inns of Court' in W Andrews (ed), *The Lawyer, in History, Literature and Humour,* (William Andrews and Co 1896) 60
[224] *Ibid*

age,[225] it seems the barristers had a passion for the theatre, as well as the dance, dinner and masque.[226] It can certainly be argued that inclusions of legal subject matter were included to appeal to the various lawyers in the audience, for example a trial scene included in *The Merchant of Venice.* Playwrights and cultural producers like trial scenes, they provide excellent points within a narrative to incorporate formalised conflict, and due to their inherent narrative style, they provide an interesting place to critique characters and their backgrounds. But the sheer number of legal references in Shakespeare's work may suggest something else.

Shakespeare's work was primarily intended for public performance and it was these performances in the public theatres that were most important to his company and their financial solvency.[227] If Shakespeare's plays were intended to be watched by the general public, from the 'groundlings' in the pit, up to those in the Royal Boxes overlooking the stage, then the audience to which he was performing must have been able to understand some if not all of the references to legal terms and concepts within his work. This may suggest a popular understanding of law in the Late-Elizabethan and Early-Jacobean era. This would only be an argument that could be raised for the capital audience due to the lack of information based around the touring patterns of companies in the provinces, but it may demonstrate a more legally aware populace, at least in the capital. Regardless, the appearance of law and lawyers in Shakespeare, demonstrates the popular representation of the law in these particularly important cultural

[225] *Ibid*, 60-61
[226] *Ibid*, 61-62
[227] W Shakespeare, *The Complete Works of William Shakespeare,* (OUP 2005) xxviii

artefacts. It certainly demonstrates the popularity of law in these respective time periods to some degree.

The Early Modern period was also a period of repetition of similar themes in the public image of lawyers. The number of common lawyers increased during this period, the Inns of Court at least doubled, with the number of lawyers at Gray's Inn increasing five-fold.[228] This supported earlier images of lawyers as excessive in numbers and desperate, even predatory, for fees, yet lawyers were also instrumental in the government of Tudor and Early Modern England. Lawyers were also instrumental in the Tudor revolution in government and held important offices of state in a volatile and turbulent time in English history. Every Chancellor of the Exchequer from Bosworth Field to the accession of Elizabeth was a lawyer and so was every speaker of the House of Commons.[229]

The power that lawyers wielded positioned them as instrumental in the functioning of Crown authority, which in turn placed these lawyers in the public eye more than they arguably had been in the preceding centuries. This power saw them incur the ire of political and social reformers. The Leveller John Lilburne called lawyers "thieves *cum privilegio*" and the Digger John Winstanley referred to them thus. "The law is the fox, the poor men are the geese; he pulls off their feathers and feeds upon them." The idea of the 'two-tongued lawyer' was a common representation during the period and continued the idea of the profession as untrustworthy and deceptive.[230] Obviously, these individuals are speaking against institutions of power and authority, but they are indicative of the repetition of themes and motifs in earlier centuries.

[228] WJ Bouwsma, 'Lawyers and Early Modern Culture' (1973) 78(2) *The American His. Rev.* 317
[229] *Ibid,* 311
[230] P Burke, *Popular Culture in Early Modern Europe,* (3rd edn, Ashgate 2009) 214

Peter Burke also emphasises the importance of the lawyer in Early Modern England as the fourth estate, but explains the profession's distance from the people. This distance was perpetuated by the experience of craftsmen and peasants being unable to find recourse in law[231] and encouraged the idea of the law as being the preserve of the elite. Furthermore, without individual or societal exposure or mass cultural texts that represented the profession, the profession was surrounded by mysticism and motifs were perpetuated through the limited exposure that individuals had via cultural texts.

However, with the sustained growth in the rudimentary printing press during the late fifteenth and early sixteenth century,[232] the production of printed sources for public consumption began to increase, so law and lawyers inevitably featured as they had done in earlier non-textual sources. During this period, small, hand-operated printing presses were used in the production of books,[233] small newspapers (Corantos), the printing of pamphlets and flysheets, and the publication of illustrated stories or ballads for popular consumption. It is worth highlighting that the regulation of printing presses was vastly different to the free, uncensored press of the mid-nineteenth century. During this period, all presses had to be registered with the government and any publications that were produced on unregistered presses were considered illicit publications. These illegal presses were established with the intention of creating illicit material. This will be discussed in more detail in the following section, but it was this illegal group of printers that constitute a major impetus behind the rapid growth in

[231] *Ibid,* 231
[232] M O'Callaghan, 'Publication: Print or Manuscript?' in M Hattaway (ed), *A Companion to English Renaissance Literature and Culture,* (Blackwell Publishing 2003) 81
[233] *Ibid*, 85

illustrated satire and caricature in the eighteenth century, and are the predecessors of the radical satirical press of the nineteenth century.

The law featured in a number of these early, printed publications and the lawyer was included also. Law and lawyers specifically featured in flysheets, ballads, and their accompanying illustrations.[234] Flysheets were illicit news-sheets that dealt with stories of scandal, vice and crime.[235] Needless to say, these flysheets dealt with legal-subject matter but more the gory or intriguing details of criminal behaviour and the subsequent punishment, less about the legal process betwixt. These flysheets were the predecessors of the gallows broadsheets and ballads that emerged during the eighteenth century, which were discussed previously.[236]

There were also a number of other ballads that were published during the eighteenth century that were targeted at the urban poor.[237] Just like the sources discussed earlier, lawyers featured within these popular and romantic ballads. There are individual titles such as '*the lawyer outwitted'* and *'the lawyer's escape'*[238]*,* that are generally negative representations of the lawyer and lampoon them as idiots or fools. This also reveals a distinct commentary on their intellect and demonstrates lawyers as an object of public and cultural derision. Nevertheless, evidence of the lawyer within another cultural text does show the

[234] *The politick maid of Suffolk; or, the lawyer outwitted*. [London], [1760?]. 1 pp., *The messenger defeated or, the lawyer's escape. A new ballad. To the tune of, Hey boys up go we.* [London], [1705]. 1 pp. and *The crafty lover: or, the lawyer out-witted. Northampton,* [1735?]. 1 pp. accessed via Web portal for 18th Century collections – <http://galenet.galegroup.com/servlet/ECCO;jsessionid=00E3B5D383FCE642AC645BA065F12411?locID=unilanc> accessed 10 Dec 16

[235] EH Smith, *A History of the Press,* (Ginn and Company 1970) 29. See also R Martin, *Women, Murder, and Equity in Early Modern England,* (Routledge 2008) 20

[236] VAC Gatrell, *The Hanging Tree,* (OUP 1996) 610

[237] R Martin, *Women, Murder, and Equity in Early Modern England,* (Routledge 2008) 20

[238] *The politick maid of Suffolk; or, the lawyer outwitted*. [London], [1760?]. 1 pp.,

lawyer as popular. Again, these were published by single print houses in London, demonstrating a lack of engagement with the provincial towns, but that is not to say categorically they were not sold or consumed in other places. However, this is unlikely because of the time intensive process of printing during the mid to late seventeenth century, which meant that they could not be produced in sufficiently mass numbers to be distributed nationally.

Throughout the late seventeenth and early eighteenth century, printing continued to grow due to the technological advancements that reduced the cost of establishing a print house. A large number of caricatures were produced that satirised and lampooned state institutions and public figures.[239] Donald has identified "caricature prints were produced in such numbers, and disseminated so widely, in the later Georgian period that a high level of demand for them must be assumed."[240]

The legal institution and individual high-profile barristers featured amongst these crude illustrations, and the emergence of the market for caricature meant that lawyers were represented in a much more vulgar manner.[241] The earlier caricaturists often represented barristers as playmates of the devil[242] and as fee-hungry predators[243] and their often crude and vulgar images within these social satires were "marked by grotesque caricature and an uninhibited vulgarity, which

[239] See generally, D Donald, *The Age of Caricature: Satirical Prints in the Reign of George III,* (YUP 1996)
[240] D Donald, *The Age of Caricature: Satirical Prints in the Reign of George III,* (YUP 1996) 15
[241] *Ibid*, 5
[242] *'The First Day of Term; or the Devil Among Lawyers'* by R Dighton (London, 1809); *'Lawyers Last Circuit'* by JR Smith, (Oxford St, London, April 1782); *'The Last Circuit'*, by W Holland, (Cockburn St, London, May 1803)
[243] *'Lawyers in Term'* by W Dent (Great Queen Street, London: J Nunn, Bookseller, Stationers and Printsellers, 1786)

was unthinkable a generation or so later in *Punch".*[244] *Punch* has been described as being without malice,[245] whereas these caricatures were grotesque and macabre at least. Caricatures such as *the lawyer's last circuit*[246] and *The First Day of Term; or the Devil Among Lawyers*[247] drew direct comparisons between the work of lawyers and the work of the devil, and illustrations such as *lawyers in term*[248] represented the barrister as a fee-hungry, monstrous creature through vivid and macabre illustrations. While these works were crass, these were the predecessors of the nineteenth century satirical press. Furthermore, visual cues and graphic symbols were replicated in the satirical press of the following decade. Wigs and black gowns were indicative of the barrister in the same way that thick-lips, a ruddy-face, and an overweight man came to represent John Bull and a tall, slender man with a long, pointed nose came to be cues for Prime Minister William Pitt the Younger. These types of visual cues became increasingly important in the visual press of the nineteenth century, particularly in the nineteenth century press.

Caricatures such as this were often satirical adaptions of specific etchings and art works. *The First Day of Term; or the Devil Among Lawyers* is a satire of a number of contemporaneous illustrations and etchings, particularly *The Court of King's Bench, Westminster Hall*[249] the *Internal View of Westminster Hall,*[250] and

[244] D Donald, *The Age of Caricature: Satirical Prints in the Reign of George III,* (YUP 1996) 5
[245] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) 10
[246] *Lawyers Last Circuit'* by JR Smith, (Oxford St, London, April 1782); *'The Last Circuit'*, by W Holland, (Cockburn St, London, May 1803)
[247] *'The First Day of Term; or the Devil Among Lawyers'* by R Dighton (London, 1809)
[248] *Lawyers in Term'* by W Dent (Great Queen Street, London: J Nunn, Bookseller, Stationers and Printsellers, 1786)
[249] '*The Court of King's Bench, Westminster Hall'* by R Phillips (St Paul's Church Yard, London, 1804)
[250] '*Internal View of Westminster Hall'* by G Hawkins (1801) WOA1853 Parliament Art Collection

Westminster Hall in the Palace of Westminster. [251] This demonstrates recognisable crossover between these types of visual sources, and demonstrates the emergent visual culture of the late eighteenth and early nineteenth centuries. Specifically, it is clear that caricaturists of the periods in question drew upon recognisable works and added a veneer of satire, adapting a traditionally high culture source and adapting it for a more mass audience. Artists such as Thomas Rowlandson, a Royal Academy trained fine artist, turned his hand to caricature to supplement his income. While Rowlandson is generally considered to be one of the finest caricaturists of the late eighteenth and early nineteenth century, his early training seems to suggest he sought a higher calling within his cultural endeavours. However, the audiences he served received Rowlandson's work with gusto and satirical caricature became his legacy. It is artists such as Rowlandson who demonstrate this merging of the high culture represented by fine art with the increasingly mass culture. That is not to say that these were incredibly far reaching, but they demonstrate a shift towards cultural texts not merely restricted to the elite and consumed by all of society.

The representation of barristers in these caricatures demonstrates the public appetite for such images and it also indicates how the legal profession was seen as an important state institution. Much like other works of satire, caricatures of the period were quick to seize upon tropes, stereotypes, and hypocrisies in the work and activities of lawyers. Their inclusion alone shows aspects of the public image of the barrister through these texts. In order for satire to engage the public, it can be argued that it needs to anchor itself in pre-existing notions and draw upon presupposed criticisms. While it may exaggerate certain characteristics, it

[251] *'Westminster Hall in the Palace of Westminster'* by Thomas Rowlandson (1808)

shows certain features of the public image of the barrister. Specifically, it can be argued that it presents a public image of the barrister as fee–hungry, wicked, and as a betrayer of trust.

These caricatures were popular, often viewed by the poor in the windows of London print houses and purchased by the rich to collect and display in their homes.[252] The production of these caricatures was largely centred around London, and certain specific population centres such as Dublin, Edinburgh, Manchester, and Birmingham. Caricaturists such as Thomas Rowlandson, James Gillray and George Cruikshank made their name through the publication and printing of their satirical caricatures, but these works do not embody the characteristics of a mass, popular culture but provide further evidence for the popular characteristics of law during this period. It can also be argued that this consumption by both the rich and poor in the expanding cities begins to illustrate the merging of high and mass culture, and began the process of mass, commercialised visualisation of culture. However, these are still focussed on a limited number of locations, not nationally.

Furthermore, the caricature movement also demonstrates the real beginning of the mass-produced and widely received pictorial visualisation of the lawyer, and the growth in the widespread distribution of popular sources. In this context, the term visualisation refers to the emergence of a visual medium that featured lawyers, moving beyond a mere textual representation to establishing a more widespread visual image of the lawyer in the public mind. Prior to this there had been some visualisation of lawyers and legal subject matter through

[252] See generally, VAC Gatrell, *City of Laughter: Sex and Satire in Eighteenth Century London,* (Walker and Company 2006)

portraiture,[253] post-mortem memorials in churches and cathedrals,[254] and through displays of authority, such as judicial processions and the arrival of the circuit assize.[255] However, it was this visualisation through caricatures in the eighteenth century that further developed signs that would come to signify aspects of the lawyer stereotypes, specifically the barrister, to a broader cross-section of English society.

The renewed interest in satirical depictions of society fed a growth in satirical works across various cultural media.[256] The sequential pictorial satire of William Hogarth fused caricature with high culture, but transmitted significant, often poignant, criticisms of contemporary society. His most recognisable works, *Beer Street and Gin Alley,*[257] reveal a disturbing image of urban London, and criticism of the rampant vices and social inequalities in eighteenth century London. Hogarth's body of work also criticised many aspects of Georgian society, and with no surprise the lawyer, specifically the barrister, appears therein. His pictorial series *Marriage a-la-Mode* [258] is highly critical of the barrister, representing him as deeply immoral and deceitful. In panel 5, the barrister, Mr Silvertongue, is seen escaping through the window after being discovered by the

[253] L Moran, 'Judging Pictures: A Case Study of Portraits of Chief Justices, Supreme Court of New South Wales' (2009) 5(3) *International Journal of Law in Context* 255
[254] A Musson 'Visual Sources: Mirror of Justice or 'Through a Glass Darkly'?' in A Musson and C Stebbings (eds) *Making Legal History: Approaches and Methodologies,* (CUP 2012) 264
[255] MJ McNamara, *From Tavern to Courthouse: Architecture and Ritual in American Law, 1658-1860,* (John Hopkins University Press 2004) 59
[256] See generally, VAC Gatrell, *City of Laughter: Sex and Satire in Eighteenth Century London,* (Walker and Company 2006)
[257] W Hogarth, *'Beer Lane and Gin Alley,'* britishmuseum.org, <http://www.britishmuseum.org/explore/highlights/highlight_objects/pd/w/william_hogarth,_beer_street.aspx> accessed 15 Oct 2014
[258] W Hogarth, '*Marriage a-la-mode',* thenationalgallery.org.uk, <http://www.nationalgallery.org.uk/paintings/william-hogarth-marriage-a-la-mode-1-the-marriage-settlement> Mr Silvertongue, the Barrister, accessed 29 May 2014

earl in a compromising way with his wife, the countess. He has also stabbed the earl in his escape.[259]

Hogarth's criticisms are also echoed in the eighteenth century theatre. John Gay's *The Beggar's Opera*[260] constantly makes disparaging references to the law and to lawyers, highlighting their ostensible dedication to money and their apparent unethical practice. This is evidenced at the opening of the play as Peachum introduces his employment as a thief taker.

Air I – An Old Woman Clothed in Grey, etc

Through all the employments of life,
Each neighbor abuses his brother,
Whore and Rogue they call husband and wife:
All professions be-rogue one another,
The priest calls the lawyer a cheat,
The lawyer be-knaves the divine;
And the statement, because he's so great,
Thinks his trade is as honest as mine.[261]

"Peachum: - a lawyer is an honest employment, so is mine. Like me, too, he acts in a double capacity, both against rogues and for 'em; for 'tis but fitting that we should protect and encourage cheats, since we live by them.[262]

Satire in the theatre affirmed the negative stereotypes and themes of anti-lawyer sentiment that were found in other spheres of eighteenth-century society. They were also prevalent within the satirical and radical press of the nineteenth

[259] *Ibid*
[260] See generally, J Gay, *The Beggar's Opera* (Unabridged) (Dover Publications 1999)
[261] *Ibid,* 1
[262] *Ibid*

century. It is no real surprise that by this point in time, the law and the lawyer are a part of the popular cultural landscape in England and Wales. However, the extent to which this extended beyond the capital and the growing urban centres to the emerging population is unclear.

There is a clear continuity of themes, motifs and images of the lawyer, and particularly the barrister, throughout English legal history. Criticisms of the legal profession can be observed through numerous sources and across various time periods. Specifically it is the motifs of the lawyer as a fee-hungry predator with proclivity for immorality, dishonesty or trickery that endure. While these core themes are a continuum throughout the period, the severity of their criticism is dependent on the medium through which they are being transmitted. The illustrated ballads, caricatures, and sequential pictorial satire of the eighteenth century are for more scathing and direct in their criticism. This is obviously a notable feature of the individual source, especially when compared to the more reserved and subtle representation of lawyers in more traditional literary sources. It can be argued that individual sources present these same criticisms in different ways and these themes have been translated into new media, new media that emerged in response to technological, social and cultural changes in their respective time periods. It could also be argued that as these historical periods progress the audience for these sources gradually grow. However, it was the nineteenth century that saw the public engage more substantially than ever with cultural representations of the barrister through process.

The different qualitative and quantitative impact of the press on the public image of the barrister in the nineteenth century is explored in the next section. But one observation that is worth considering at this juncture is that changes to

the press in the nineteenth century gave rise to a more nuanced, mass public image of the barrister and provided a representation of the barrister that was based in reality and in non-fictitious sources. An interesting observation to the changing quantitative and qualitative impact of sources becoming more popular can be seen in the transition from lawyer as a turn of phrase to specific professional titles, such as the barrister. While this could be linked to the evolving legal profession through history and its changing roles in the legal process, it is also likely to be related to growing understanding and representation of the barristers in non-fictional texts.

This work proceeds to further analyse the representation of the barrister in historical nineteenth century cultural texts to make a valuable contribution to the current understanding of the depiction of the barrister through these sources. This work will also examine the effect on the popular attitude to law following the expansion of the press in the nineteenth century by exploring whether the press was the first truly mass source to widely focus on the law and the barrister. The history of the press culture in England will now be examined in order to explain the mass and comprehensive characteristics of the press in the period.

The History of Press Culture in England

In order to achieve the research aim of this thesis, this work will now examine the prevailing historical investigation into the press culture of the nineteenth century. This section will also examine the nature and reach of the press during this period. This will allow the popular nature of the press and the reach of the publications under scrutiny to be more carefully considered later in this work, without the need for distraction from the focus of this work on the representation of the bar. This is fundamental to determining whether the press

can be considered to have created a popular public image of barristers in the period.

It must be acknowledged from the outset, that this thesis does not attempt to argue that the changes within the press of the nineteenth century created the first 'press culture' per se. Instead, it argues that it was during the nineteenth century that the press culture can be considered popular (conforming to the definitions of popular culture outlined previously), and grew to a form that is most familiar to us today due to its mass and classless characteristics. Essentially, it is argued that the changes indicative of the nineteenth century created the modern press, and the press culture familiar to us today.

In the centuries preceding the nineteenth century, a limited press culture had been established in England and Wales. As previously mentioned, the newspaper press began with the pocket-sized Corantos or newsbooks[263] of the seventeenth century, small-scale publications based out of individual London presses. These highlighted various news from the Thirty-Years War as well as other fanciful stories from closer to home.[264] However, they were rarely published regularly, and their existence was short-lived. Their publication concerned the Court of Star Chamber, which banned their publication in 1632.[265] This was relaxed later in the decade, and retracted by the abolition of the Star Chamber in 1641,[266] but does highlight the uneasy relationship between the state, politics, and the press that infuses the history of the establishment of the press.

[263] EH Smith, *A History of the Press,* (Ginn and Company 1970) 10
[264] *Ibid*, 11-12
[265] *Ibid*, 12
[266] *Ibid*

The English Civil War also had a major influence on the development of the press. This was due to the desire for national news, and the desperate need of Royalists and Parliamentarians for publishing propaganda to encourage their respective causes.[267] It was during this period that the first newspaper was published with any particular regularity.[268] Nevertheless, the publications produced by both sides during the war were more propaganda than news, but they did begin to expose the wider public to the printed word, and began a strong tradition of the press constructing or reflecting public opinion. Yet, these publications were largely for the elite, the wealthy, the literate, the urban populace, and did little to directly engage the poor. That is not to say that these publications were not read or recited to the poor and illiterate, but it can be argued they were not exposed to these publications in any substantial way due to their literacy levels and the lack of widespread printing presses.

Following the establishment of the Republic, the relationship between the press and politics became most closely intertwined. State censorship of the press prevailed in the new republic with the publication of only two official newspapers authorised by the Government for publication.[269] After the restoration, state censorship continued to a degree through the office of the 'Surveyor of the Press.'[270] In order to publish anything,[271] one needed to be granted a licence by this office. This was an attempt to control republican and anti-monarchist sentiment, and to control the distribution of discontentment. Unsurprisingly, an underground press emerged, but the punishments for illicit printing was severe

[267] *Ibid*, 13
[268] *Ibid*
[269] *Ibid*, 15-16
[270] *Ibid*, 17
[271] There wasn't just a restriction on newspapers. All ballads, portraiture, books, plays, sheets, pictures, maps, music, playbills, bills, tickets, and many more had to be printed under licence from the Surveyor of the Press.

including execution, imprisonment and a spell in the pillory.[272] In spite of this, those legitimate newspapers began to flourish in the latter half of the seventeenth and beginning of the eighteenth century. For example, between 1660 and 1710, newspapers moved from being weekly or bi-weekly publications to being a daily part of life in the capital. By 1776, fifty-three newspapers were being published in London[273] but due to stamp duty, often called the 'taxes on knowledge,'[274] these newspapers were particularly targeted at the wealthy, intellectual elite.

The elitist reach of the press continued until the first half of the nineteenth century. As Smith has stated, "the great and successful newspapers of the eighteenth century were… political ones. They catered for a limited class of wealthy politically active people who could afford to pay the cost of papers as inflated by stamp duties."[275] The stamp duty was designed to keep the cheap 'gutter' press at bay and out of the hands of the majority of the population to prevent the spread of discontentment.[276] Still, an illicit 'unstamped' press existed much in the same way it had throughout other periods of censorship or press restriction. However, these cheap 'unstamped' press publications were radical in their commentary on politics, the King, and society, and were aimed at those who sympathised with such revolutionary and fundamentalist ideals, not the public at large.

Despite its specific circulation group, the power of the press in eighteenth century England cannot be underestimated. For those spheres of society that consumed newspapers, the press was able to construct political opinion, engage

[272] EH Smith, *A History of the Press,* (Ginn and Company 1970) 17
[273] *Ibid,* 29
[274] A King and J Plunkett, *Popular Print Media, Vol. 1,* (Routledge 2004) 11
[275] EH Smith, *A History of the Press,* (Ginn and Company 1970) 27
[276] *Ibid*

individuals in various political ideologies, and reflect opinion of particular public figures. Prior to the eighteenth century, Parliamentary debates from both houses were not reported anywhere for fear of compromise by the people or the King.[277] This began to be degraded in the mid-eighteenth century and by the time of George III accession in 1760 the press was calling for the right to report Parliamentary debates and the proceedings of both houses. By 1783, reporters were permitted to take notes in the commons, meaning that the press were finally granted the right to report the debates.[278] This was an important moment in the centring of political discourse in the mainstream press and positioning law making at the heart of the popular press. It could also be considered that this was the point where the press truly became the fourth estate.

Throughout the Georgian period, a huge number of smaller, transient political newspapers were also established to explore specific political issues and discuss political figures. These were often forms of propaganda and lasted as long as the Parliamentary session within which they were relevant.[279] They were founded and disbanded, sometimes funded by political parties or opposition, but they continued to engage the public in political dialogue and consequently became an important medium in constructing public opinion of political figures and political issues.[280] It could be argued that at this point the press truly began to construct public images of individuals and political issues.

[277] *Ibid*, 30
[278] *Ibid*, 34
[279] J Black, *The English Press in the Eighteenth Century,* (Routledge 2010) 80
[280] EH Smith, *A History of the Press,* (Ginn and Company 1970) 33

Black has also acknowledged the power of the press in constructing public opinion of political issues.[281] He argues that various actions against newspapers during the period and the "distinction between Liberty and Licence Arguments for the restriction of press freedom were obviously related to those seeking to limit the role of newspaper and public opinion."[282] Black also explains the esteem through which the press was held throughout the eighteenth century, he cites contemporary sources describing the press as "guardians to the public" and "the firmest bulwark of the liberties of this country."[283] He also explains how the will of the public was particularly prevalent in the political life of eighteenth century England.[284] The power of the press in constructing public opinion in the eighteenth century was clearly understood by its contemporaries, and existing research has acknowledged how mainstream and illicit publications were fundamental in encouraging some limited public engagement with political discourse. This is important for the aim of this thesis. This thesis intends to analyse the construction of the public image of the bar through the press of the nineteenth century. While it is clear at this point in time this was happening with politics to a certain extent, this idea can be carried forward to the truly mass press of the nineteenth century.

A particularly relevant type of illicit publication that existed in the late eighteenth and early nineteenth century was the flysheet.[285] These flysheets recorded stories of crime, scandal, and depravity and were sold cheaply. This exposed some of the working poor to the press and further centred the law and

[281] J Black, *The English Press in the Eighteenth Century,* (Routledge 2010) 88
[282] *Ibid*
[283] *Ibid,* 88-89
[284] *Ibid,* 89
[285] EH Smith, *A History of the Press,* (Ginn and Company 1970) 29

crime within the press of the common person. However, these were largely centred in urban areas, most specifically London, and were unrecognisable to the vast amount of serious newspapers read by the poor a hundred years later.

By the beginning of the nineteenth century, the press culture in England had been firmly established. Yet, there was still an elite press and a gutter press; a press for the wealthy and a press for the poor. It was during this period that these cultural lines of high and mass culture began to disappear, and the various factors that are synonymous with the socio-economic changes of the epoch transformed the press. The popular characteristics and mass reach of the newspaper press will now be explored.

Considerable historical and cultural research has been undertaken into the press of the nineteenth century. There have been comprehensive general histories of the press, documenting its growth and development throughout the nineteenth century. In 1871, in his seminal work *The Newspaper Press: Its Origins, Progress and Present Position,* Grant[286] completed a wide-ranging history of the press, displaying how important nineteenth century scholars viewed the press during this period. More recently, Harris and Lee edited a collection of essays on the development of the press in the seventeenth to nineteenth centuries.[287] This work addresses religion in the press, politics in the press and even sport in the press. Jeremy Black,[288] Brake *et al,*[289] and Conboy[290] have all

[286] See generally, J Grant, *The Newspaper Press: Its Origins, Progress and Present Position*, *Vol. I, II and III,* (Tinsley Brothers 1871)
[287] See generally, M Harris and A Lee, *The Press in English Society from the Seventeenth and Nineteenth Centuries,* (Associated University Presses 1986)
[288] See generally, J Black, *The English Press, 1621-1861,* (Sutton Publishing 2001)
[289] See generally, L Brake and JF Codell, *Encounters in the Victorian Press: Editors, Authors, Readers,* (Palgrave Macmillan 2005) and L Brake and M Deymoor (eds), *The Lure of Illustration in the Nineteenth century: Picture and Press,* (Palgrave Macmillan 2009)
[290] See generally, M Conboy, *The Press and Popular Culture,* (Sage 2002)

also presented distinct histories on the press during the period outlining its importance an important cultural media and vehicle for engagement in the period.

In his monograph *The Power of the Press,* Aled Jones[291] examined the extent of the power of the press in influencing public opinion in this period. He explained how important the press was in leading and reflecting public attitudes.[292] Furthermore, during the last decade, there have been a number of readers and general texts written on the Victorian press to aid study and research into this area. This has been facilitated by the digitalisation of press resources[293] to prompt increased interest in the press as a literary, cultural, and historical source. A particularly pertinent example is King and Plunkett's reader on *Victorian Print Media*,[294] which is a broad source collection from the newspaper and periodical press, including sources related to the law in the mainstream and legal press.

Yet, within these histories of the press, the representation of the barrister is not included. However, the depiction of crime is. Scholars such as Weiner,[295] Rowbotham and Stevenson, [296] Sindall, [297] Maunder and Moore, [298] and

[291] See generally, A Jones, *The Power of the Press: Newspapers, Power and the Public in the Nineteenth Century,* (Scolar Press 1996)
[292] *Ibid*, 4
[293] See specifically, J Mussell, *The Nineteenth century Press in the Digital Age,* (Palgrave Macmillan 2012)
[294] See generally, A King and J Plunkett, *Victorian Print Media: A Reader,* (OUP 2005)
[295] JH Weiner, 'How New was the New Journalism?' in JH Weiner (ed) *Papers for the Millions: The New Journalism in Britain 1850s-1914,* (Greenwood Press 1988) 47-71
[296] See generally, J Rowbotham and K Stevenson (eds), *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (State University Press 2005)*;* J Rowbotham and K Stevenson, *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels,* (Ashgate 2003) and J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010* (Palgrave Macmillan 2013)
[297] See generally, R Sindall, *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* (Leicester University Press 1990)
[298] See generally, A Maunder and G Moore, *Victorian Crime, Madness and Sensation,* (Ashgate 2004)

Mangham,[299] have examined the manner in which the press represented crime in the Victorian age. These works have looked at how the press represented criminals, the crimes they committed, and how certain crimes created moral panic and fear in nineteenth century society. Even in these specialist socio-historical works that focus on crime in the press, the depiction of the barrister has not been studied.

There have also been a number of histories of the periodical press in the period. Shattock and Wolff's[300] *The Victorian Periodical Press: Samples and Soundings* and Van and VanArsdel[301] in *Victorian Periodicals and Victorian Society,* have undertaken broad examinations of these publications. These works have examined the more general history of the periodical press in the Victorian era, whilst also exploring specialist publications of the period.

Nevertheless, it is Richard Altick's work on the evolution of reading materials and their readerships in the nineteenth century that is the definitive work on this subject.[302] It must be acknowledged that a large part of his work deals with the publication and distribution of books, but the final section deals with newspapers and periodicals. It presents a complete and compelling social history of the newspaper press in the period, and highlights how the press and the 'reading' public underwent a far-reaching transformation. It was the changes to society, oft cited as indicative of the industrial revolution, that led to a vast

[299] See generally, A Mangham, *Violent Women and Sensation Fiction: Crime, Medicine and Victorian Popular Culture,* (Palgrave Macmillan 2007)
[300] See generally, J Shattock and M Wolff, (eds) *The Victorian Periodical Press: Samplings and Soundings,* (Leicester UP 1982)
[301] See generally, J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint. University of Toronto Press 1995); L Brown, *Victorian News and Newspapers,* (Clarendon Press 1985)
[302] See generally, RD Altick, *The English Common Reader: A Social History of the Mass Reading Public, 1800–1900,* (University of Chicago Press 1957)

transformation to the newspaper and periodical press in England.[303] The principal changes that affected the growth and subsequent reach of the press during this period, will now be outlined and examined.

The vast population changes during the period expanded the "reservoir"[304] from which the new readership of the press was drawn. In 1800, the population of England, Wales and Scotland was around 8.9 million and by 1901 it had grown to 32.5 million.[305] Obviously, these figures do not relate directly to readership numbers, but demonstrate the potential emerging market throughout the period for commercial produce, including newspapers and periodicals. It is an argument based around simple economics. It can be claimed that the growth in population created a greater demand (or at least the potential for demand within an emerging market) that enterprising people and existing journalists could supply. It also suggests that this increase in population bolstered existing, well-established publications and, as the era progressed, diversified their readership. However, the major increase in population cannot be purely linked to the growth in the press, but instead acted as a catalyst for a number of other influencing factors that led to the growth in the press. These factors included increasing literacy levels through subsequent generational changes, vicissitudes to the socio-economic background of some, transformations to the accessibility of reading material, and emergent changing attitudes to reading materials, which all affected the growth in common reading.[306]

[303] K Williams, *Read All About It!: A History of the British Newspaper,* (Routledge 2010) 75
[304] *Ibid,* 81
[305] *Ibid*
[306] *Ibid*

It is impossible to disengage the exponential population growth from the various social improvements, including improved sanitation,[307] advancements in medicine,[308] availability of food,[309] and improved living conditions[310] that occurred in the first half of the century. However, as the century progressed, this large urbanised populace and modernised society resulted in an extensive need for improvement in many areas of Victorian society. The press was instrumental in calling for change in society[311] and this led to a political culture of central administrative interventionism,[312] followed by a "drift towards state activism."[313]

One such area that saw centralised intervention and improvement was the education of society.[314] During the nineteenth century, "public education systems were constructed"[315] to educate the growing population with a minimum level of literacy and numeracy. While this was a slow process, originally led by voluntary and philanthropic societies,[316] it accelerated during the mid-Victorian era through various government provisions.[317] By 1880, the government had introduced a series of Elementary Education Acts,[318] making it compulsory for all children less than 10 years of age to receive a basic education. These advancements in education throughout the whole period led to an increase in public literacy. By the

[307] L Jackson, *Dirty Old London: The Victorian Fight Against Filth,* (Yale University Press 2014) 1
[308] C Swisher, *Victorian England*, (Greenhaven Press 2000) 27
[309] See generally, A Broomfield, *Food and Cooking in Victorian England: A History,* (Praeger 2007)
[310] For a long list of the diverse scholarship on national and regional living conditions see R Roger, *Housing in Urban Britain 1780-1914,* (CUP 1995) 89-91
[311] EH Smith, *A History of the Press,* (Ginn and Company 1970) 41
[312] See generally, AJ Taylor, *Laissez-faire and State Intervention in Nineteenth century Britain,* (Macmillan 1972) 82
[313] L Goldman, *Science, Reform and Politics in Victorian Britain,* (CUP 2004) 268
[314] See generally, DF Mitch, *The Rise of Popular Literacy in Victorian England: The Influence of Private Choice and Public Policy,* (University of Pennsylvania Press 1992)
[315] M Larsen, *The Making and Shaping of the Victorian Teacher: A Comparative New Cultural History,* (Palgrave Macmillan 2011) 29
[316] *Ibid*, 30
[317] *Ibid*, 30-31
[318] Culminating in the Elementary Education Act (1880) 43 & 44 Vict c.23

end of the nineteenth century around "97 percent of males and females could sign the register"[319]; between 1859-74, 70 percent of all 20-40 year olds could be considered to have basic literacy.[320] Between 1879-94, 85 percent of all 20-40 year olds possessed basic skills such as reading and writing. This increased to 100 percent between 1899-1914.[321] It can be argued that this increase in literacy contributed to more widespread engagement with press resources during the period of study, and the creation of a literate culture of social readers.[322] That is not to say that all of society became avid readers, but there was a more substantial engagement with the written word, mainly through the press.

Another factor that increased the market for newspapers and periodicals was the increase in the disposable incomes of families in most strata's of society (including some of the working class).[323] While it can be difficult to ascertain the specific amount of disposable income per household,[324]most classes of society had a small amount of disposable income, which could be spent on a weekly newspaper or periodical.

It was also common for individuals or families to hire newspapers at 1d an hour from a newsman or hawker.[325] It can also be argued that the urbanisation of society created new communities, within which newspapers could be shared and consumed as part of shared arrangements.[326] It can also be suggested that the

[319] P Horn, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Amberley 2014) 304
[320] D Vincent, *Literacy and Popular Culture: England 1750-1914*, (CUP 1993) 27
[321] *Ibid*
[322] P Horn, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Amberley 2014) 304
[323] S Eliot, 'Books and their Readers – Part 1' in D da Sousa Correa, *The Victorian Novel,* (Routledge 2000) 8
[324] *Ibid*
[325] EA Smith, *A History of the Press,* (Ginn and Company, 1970) 43
[326] K Stamm, *Newspaper Use and Community Ties: Toward a Dynamic Theory,* (Ablex Publishing 1985) 168

growth of Mechanical Institutes and Working Mens Clubs in industrialised areas gave the working class an opportunity to engage with press resources and other sources of education and literature.[327] These clubs and institutes became centres of learning in the industrial regions of nineteenth century society, but the press more generally, gave this literate public a forum through which they could educate themselves, engage with current issues, and indulge their hobbies and interests.

During this period it was common practice for newspapers to be supplied in public houses and gin shops for customers to read, and the resurgence of coffee shops across the country in the nineteenth century also gave an additional space through which the public could engage with newspaper and printed materials. [328] It was also common for newspapers to be read at public meetings,[329] and they were also provided in Sunday school for pupils.[330]

The technological changes that were characteristic of the nineteenth century also increased the proliferation of newspapers and periodicals through swifter and lower cost printing. In particular, "the use of stereotyping which lowered the costs of reprints, improvements in paper making machinery, and the advent of steam powered printing presses. Graphic design also benefited from innovations, most notably the development of lithography and photography."[331] Crone also stated that "the printing trade was opened to anyone who could

[327] D Golby, *Instrumental Teaching in Nineteenth century Britain,* (Routledge 2016) 254
[328] *Ibid,* 43-44
[329] *Ibid,* 44
[330] *Ibid*
[331] Z Khan, 'An Economic History of Copyright in Europe and the United States' in R Whaples, (ed) *EH.Net Encyclopaedia,* (2008) <http://eh.net/encyclopedia/an-economic-history-of-copyright-in-europe-and-the-united-states/> accessed 2 Dec 2015

purchase a £30 press and hire a small room",[332] clearly demonstrating the ease with which those who could afford the equipment and rent could market publications. Distribution of these publications was also assisted through improvements to transport, such as the invention of the railways and canal systems, and the advent of mail delivery.[333] This resulted in wider and more efficient distribution of centrally produced press publications, specifically periodicals.[334]

Moreover, publications were not only produced in London. Many regional publishers and newspaper presses emerged in provincial population centres, which subsequently led to a large number of provincial publications.[335] The urbanisation and industrialisation of individual communities acted as a source of regional and local news, and advertising.[336] In the early nineteenth century, there "were no daily newspapers published in Britain outside of London, which had 14." [337] By 1880, there "were ninety-six in the English provinces and Monmouthshire, four in Wales and twenty-one in Scotland."[338] These cities also assured a mass readership for national and regional papers. As Wolff has argued, "the relationship between the press and the city is very close, for against a background of industrial and technical development, only city-dwellers can assure a mass readership capable of escalating faster than their own

[332] R Crone, *Violent Victorians,* (Manchester University Press 2012) loc.2073 (eBook)
[333] A Jones, *The Power of the Press: Newspapers, Power and the Public in the Nineteenth Century,* (Scolar Press 1996) 7
[334] WE Houghton, 'Periodical Literature and the Articulate Class' in J Shattock and M Wolff, (eds) *The Victorian Periodical Press: Samplings and Soundings* (Leicester UP 1982) 3
[335] See generally, D Vincent, *Literacy and Popular Culture: England 1750–1914* (CUP 1993) 201
[336] K Stamm, *Newspaper Use and Community Ties: Toward a Dynamic Theory,* (Ablex Publishing 1985) 174
[337] P Horn, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Amberley 2014) 307
[338] *Ibid*

numbers."[339] Towards the end of the period, this encouraged the growth of the regional press, demonstrating the establishment of the press as an important facet of nineteenth century society.[340]

The regional press often reported select parts of national newspapers, alongside specific local stories. For example, the regional press regularly reported the affairs of Parliament, often verbatim, from the national press. This was the same for stories of particular public interest. These national stories were supplemented by stories of local interest. These regional publications also published specific national and regional legal intelligence.[341] Most regional newspapers reported legal issues from the central London courts, alongside specific news from the local courts. These included the assize or quarter sessions, as well as reports from more specific local courts, such as the petty sessions and police court hearings. Towards the end of the nineteenth century, these regional publications also presented national and regional arts and recreational news and information. They also provided a highly visible location for advertisements to the local communities they served. These localised sources of information and opinion provide us with a fascinating source of social, economic and cultural history.

Finally, King and Plunkett[342] attribute the effective removal of Stamp Duty in June 1855 and the Paper Duty in 1861 as being a key factor in the creation of

[339] M Wolff, 'Urbanity and Journalism: The Victorian Connection' *The HJ Dyos Memorial Lecture,* 29 May 1979, 9
[340] *Ibid*, 8
[341] J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010* (Palgrave Macmillan 2013) 17-19
[342] See generally, A King and J Plunkett, *Victorian Print Media: A Reader*, (OUP 2005) and A King and J Plunkett, *Popular Print Media, Vol. 1* (Routledge 2004)

the cheap national and regional press,[343] the removal of stamp duty also allowed newspapers and periodicals to reduce their prices. For example, *Reynolds's Newspaper* and *Lloyd's Weekly Newspaper* were able to price their paper at 2d in 1855 and 1d in 1861.[344] It could be argued that this had a major impact on accessibility for the public. For example, "*Lloyd's* saw its circulation rise from 90,000 in 1853 to 170,000 in September 1861, and to 350,000 in 1863."[345] As Wiener has stated, "In readership terms, classlessness edged past class as the circulation of newspapers soared in the millions."[346] This facilitated accessibility of press publications to all classes of society, not just the wealthy elite.

All of these changes led to a plethora of printed material being produced, not solely press publications. Houghton states that the Victorians published over 25,000 journals and newspapers, as well as several hundred reviews, magazines and weeklies to appeal to all classes of society.[347]It can be argued that this proliferation of the press and its ability to permeate all classes of society that led to the creation of a press culture in nineteenth century England.

This press culture is defined as the widespread societal exposure to the press and the extensive public interaction with all its facets,[348] including the shift of the press as a medium for the elite to a media for all classes. For example, in 1832, *The Times* regularly sold 10,000 copies on a daily basis and was the market leader. It traditionally had a middle to upper class readership and maintained this demographic throughout the nineteenth century. However, by

[343] A King and J Plunkett, *Popular Print Media, Vol. 1* (Routledge 2004) 11
[344] *Ibid*,
[345] *Ibid*, 12
[346] JH Weiner, 'Introduction' in JH Weiner (ed) *Papers for the Millions: The New Journalism in Britain 1850s to 1914,* (Greenwood Press 1988) xii
[347] WE Houghton, 'Periodical Literature and the Articulate Class' in J Shattock and M Wolff, (eds) *The Victorian Periodical Press: Samplings and Soundings* (Leicester UP 1982) 3
[348] See RD Altick, *Victorian People and Ideas* (Dent & Sons 1974) 59–64

1882 the highest readership was for *Lloyd's Weekly Newspaper,* with a weekly sale of around 750,000 copies.[349] *Lloyd's* had a predominantly working class readership.[350] This shift from an elite target audience to a more widespread cross-class distribution in the press was exemplified by the success of the cheaper daily press. The *Daily Telegraph* was launched as a daily penny paper in 1855 and by 1861 it had a circulation of 141,000, which was more than double *The Times's* daily circulation of 65,000.[351] This cheap penny press allowed the poorer working classes to follow current affairs in the press and engage with the ideas and opinions expressed within these publications.

The quantitative and qualitative impact of the press in the nineteenth century was vastly different to effect of popular sources on society in the centuries that preceded it. It is clear that the press was quantitatively transformed during the nineteenth century. The vast number of newspapers and periodicals that emerged during the period, the increased access by all strata of society, steadily rising literary rates across the century, and the various contributing factors listed above meant that the effect of the press was quantitatively different to popular sources in previous centuries, and arguably unparalleled in the cultural landscape of the period. The press of the nineteenth century reached people from all classes of society and this saturation of newspapers, that reached all parts of the United Kingdom and into the Empire, meant that the public engaged with mass print culture in ways unimagined in the preceding century. The definition of popular culture drawn upon in this work outlines the importance of a text of popular culture as being defined by this quantitative equation. By this

[349] EG Salmon, 'What the Working Classes Read' (1886) 20 *Nineteenth century* 110
[350] *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*
[351] L Brown, *Victorian News and Newspapers,* (Clarendon Press 1985) 22

definition, it can be argued that the press of the period is one that is truly popular based upon this quantitative equation and the various characteristics of the nineteenth century press outlined earlier in this section support this.

The quantitative effect of the press was not just limited to national publications, but also those produced regionally and locally, particularly in urban centres. This change in press culture included the vast number of different individual publications, the number of each copy of an edition, publication or serial produced (their sales) and their readership. While specific information is given above for the sales of such publications, readerships were potentially more numerous and the national press permeated into all communities across the country. In turn, the regional and local press often drew leaders and reportage from national press publications, by consequence going someway in unifying these cultural texts. It can be argued that this countrywide reach was relatively unique to the press of the nineteenth century, excluding perhaps the bible. While there are commonalities and consistent motifs across other cultural texts throughout history, it is the press of the nineteenth century that was read and engaged with consistently by all people. Whether it was the miners in the coal fields of South Wales or North Yorkshire, bank managers in Edinburgh or London, attorneys in Truro or Aberdeen, the press was the principal cultural text that united these usually geographically and socially distant groups. By way of quantitative equation, the press can be seen as one of the first mass cultural texts that transcended class boundaries and had a truly countrywide reach.

It can also be argued that the sheer number of publications printed by the national, regional and local press also meant that a much more nuanced and diverse range of cultural representations emerged. The effect of such a

quantitative change to the press meant that more publications represented subject matter in a wide variety of ways when compared to more limited and simplistic tropes in the earlier centuries. The heterogeneity of the press in this period and the qualitatively diverse characteristics of reportage meant that representation of individuals, institutions, organisations, social groups, and all subject matter was much more nuanced than it had been in previous centuries. This was because publications were created to appeal to all members of society regardless of background, socio-economic class, interests, and tastes. Each one sought to develop their own unique selling points, and appeal to their core readership while bringing in new readers. This led to intense competition and, when combined with a continually emerging market, meant that the press was always looking to develop to keep their readers. While many publications endured, many did not. Those that did were able to diversify and appeal to new and established readers alike.

A particular qualitative feature of the press included the publication of a variety of different types of articles within their pages. For example, mainstream press publications included leader articles, recurring columns, editorials, op-eds, letters and responses from the public to the editor, investigative pieces and intelligence pieces that reported the affairs of different state institutions and organisations. The variety of article types presented to the public transmitted a number of different representations and perspectives on the subject matter reported and debated in the press. It can be argued that this was different to the singularity of representations largely associated with earlier cultural texts. Furthermore, the specific characteristic of truth, or at least the veneer of truth, that the press presented also legitimised the depictions of reportage and opinion,

and placed the writings of journalists as a particular authority in nineteenth century society. In turn, this legitimised a nuanced spectrum of representation and allowed the public to engage with various gradation of the images represented of particular subject matter.

This qualitative difference is also exemplified by the increasing inclusion of the visual image in press publications. These images acted as illustrations for reported stories and augmented the textual image constructed through press reporting. This visual image allowed a more qualitative experience of newspaper reporting and assisted the mass public in visualising individual, events and spaces. The image became more pervasive than ever, reaching all strata of society, and this merged the visual and the textual in a truly mass popular source. These visual images deepened engagement with the qualitative message transmitted by popular culture and assisted with the evolution of the press as a textual and visual medium.

It is important to acknowledge that the press was not the only cultural medium that developed substantially during the nineteenth century. There was also a revolution in other forms of entertainment and leisure during this period. As Horn has argued it "was a paradox of nineteenth century Britain that while work was the bedrock upon which Victorian vision of progress and improvement was constructed, the years between 1837 and 1901 saw the greatest upsurge in leisure pursuits hitherto witnessed."[352] She also explains that these leisure pursuits and pleasure activities were varied, and were closely linked to the developments in the press. She states these "ranged from music hall

[352] P Horn, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Amberley 2014) 9

entertainment, railway excursions and commercial sporting activities to the effects of technological change in the making available cheap books, newspapers and musical instruments, including the piano."[353] These developments in leisure and recreation in Victorian England were linked, much like the press, to the "greater spending power of most workers."[354]

A particularly important example would be the development of the theatre in the nineteenth century.[355] Queen Victoria herself was a rapacious fan of the theatre. Booth has described her theatrical tastes as representing the whole spectrum of nineteenth century popular theatre. From farce, pantomime, melodrama and animals on stage, to Opera, Shakespeare, and comedy, her tastes represented the tastes of the nation during her reign[356] and her people shared her adoration of the live performance.

The Victorian theatre, as a sphere of leisure and recreation, expanded extensively during this period. Much like the press, the class boundaries of its audiences also shifted substantially. During the eighteenth century, the theatre had been the preserve of the elite, both as wealthy patrons and as aristocratic owners and operators.[357] While there had been a move away from the capital towards provincial theatres, namely the Theatre Royals, during the second half of the eighteenth century,[358] the real change came in the first half of the nineteenth century. Across the country, particularly in the emerging working class boroughs of towns, a number of minor theatres emerged to challenge the controlling

[353] *Ibid*
[354] *Ibid*
[355] See generally, T Davies and P Holland (eds), *The Performing Century: Nineteenth Century Theatre's History,* (Palgrave Macmillan 2007)
[356] MR Booth, *Theatre in the Victorian Age,* (CUP 1991) 1
[357] *Ibid*, 6
[358] *Ibid*

monopoly of the privileged theatres and those with letters patent.[359] These minor theatres sprang up across the country during the early part of the nineteenth century, and provided live entertainment for the working class.[360] London may have held a great number of theatres, but theatres, music halls, concert halls and other places of amusement grew in most urban centres.[361] The theatre became a major site of cultural engagement, and another key source of popular culture.

The economic slump of the mid-nineteenth also had an effect on encouraging new classes or audiences of theatre through the door. The economic slump hit the theatre trade hard; so a reduction in seat prices, designed to retain existing audiences, made certain theatrical activities accessible to the working class as well as the developing middle and upper class. [362] This created a shift in culture. The theatre became more accessible to the working classes and moved the general public towards a popular culture of entertainment and recreation. The increased market that followed the slump encouraged investment in entertainment across the country, no more so than in London. The West End underwent a building boom, leading to the construction of numerous new establishments and creating a theatreland within the capital.[363] By 1896, "London had 550 places of amusement, of which 50 were theatres, the remainder being music halls, concert halls and other places of amusement."[364]

The changing number of touring companies also demonstrates this growth in the theatre during the later nineteenth century. In 1871, it was estimated that around 12 touring companies were touring the provincial towns, but by 1896 *The*

[359] *Ibid*
[360] *Ibid*, 1-2
[361] *Ibid*, 11
[362] *Ibid*, 7
[363] *Ibid*,
[364] *Ibid*, 11

Era listed the number of touring companies on the road as 158.[365] This is a substantial change within 25 years, and demonstrates the growth of this cultural medium within the provincial towns as well as within the capital. There was a clear shift during this period towards a population who actively engaged with cultural texts, and the consumption of the newspaper and theatre are two individual examples in a much broader stall.[366]

Just like the press, jurisprudential themes appeared upon the theatre boards and again, like the press, the working classes were titillated, intrigued, and enthralled by crime and law stories.[367] For example, in 1866 a witness to the Select Committee on Theatrical Licences and Regulations "agreed that the plays most popular amongst the lower orders were those founded on burglaries and robberies."[368] The works of Shakespeare also saw a substantial popular revival during the period,[369] as did the work of John Gay. The popular operettas of WS Gilbert and A Sullivan also demonstrate popular engagement with jurisprudential themes.[370] Legal themes permeate their work, and provide the historian with an interesting perspective on law, the legal process, and barristers during the period and their popular representation. It also evidences further cultural engagement with legal themes and barristers during this period.

[365] P Horn, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Amberley, 2014) 297
[366] See generally, P Horn, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Amberley 2014) who explores theatre and literature, but also excursions and holidays, family amusements and pastimes, country pursuits, mass sports, and fashion.
[367] K Dolin, *Fiction and the Law: Legal Discourse in Victorian and Modernist Literature,* (CUP 1999) 1
[368] *Ibid*, 287
[369] *Ibid*
[370] See WS Gilbert and A Sullivan, *Trial By Jury*; *HMS Pinafore; The Mikado; Iolanthe; Utopia (Limited)*

While the theatre was a cultural medium that underwent a further mass popularisation due to urbanisation and industrialisation in the crucible of the nineteenth century, it was the newspaper press that reached the greatest number of consumers and had a greater quantitative impact in terms of prolonged and sustained engagement. It is not disputed that the theatre was a far-reaching source of popular culture during the period in question, but it cannot be said to be as ubiquitous a text as the press. Theatres were often based within population centres whereas the press had reach into all parts of England and Wales. The press was also engaged with on a daily or weekly basis buy vast numbers of the population across class divides, whereas the theatre did not have such a quantitative and frequent reach into the cultural landscape of the population. This was reflected in the growth of national and regional newspapers and the pervasive press culture that emerged during the period. It can be also be argued that even where such press publications could not be purchased by the mass lower classes, there was opportunity to engage with newspapers and periodicals through public reading rooms, workingmen's clubs, welfare clubs, mechanical institutes, public houses, coffee shops, gin shops, religious organisations, bookshops, and other social spaces and organisations.[371] In 1829 it was estimated that, on average, every London newspaper was read thirty times,[372] and as literary rates increased and the numbers of national and regional newspapers grew, more of the public were engaging with sources. This thesis draws upon these ubiquitous press sources as opposed to theatre to examine a truly mass popular representation of the barrister and the public image constructed.

[371] A Aspinall, 'The Circulation of Newspapers in the Early Nineteenth Century' (1946) 22 *R. E. S.* 30-37
[372] *Ibid,* 30

A Historiography of the Barrister in the Nineteenth Century

To demonstrate the originality of this work and to situate it within the existing history of the barrister's profession, this section will outline the key work already undertaken by scholars in the field of legal history in respect of the barrister. This work will explore some key findings from this existing scholarship, and will demonstrate how the representation of the barrister in the newspaper and periodical press of the period has yet to be given sufficient attention. Finally, it will be argued that the analysis of the barrister in press addresses a gap in scholarship left by previous research.

Numerous histories have been written on the social changes resulting from economic and technological progress during the industrial revolution.[373] Although the term 'revolution' suggests a sudden or rapid upheaval, the term 'industrial revolution' refers to the more gradual economic and industrial changes that occurred in England between the mid-eighteenth and nineteenth centuries. These gradual and progressive changes saw the make-up of English society shift from a largely localised and agrarian people to an urbanised and industrialised nation. This led to immense social and cultural changes. The effects of the industrial revolution led to modification and modernisation in economic,[374] social,[375] political,[376] cultural,[377] geographical[378] and technological[379] fields. These

[373] See generally, G Best, *Mid-Victorian Britain 1851-75,* (Fortuna Press 1985), A Briggs, *The Age of Improvement*, (Longman 1965); H Martin, *Britain in the Nineteenth Century,* (Nelson Thomas 1996); C Williams (ed), *A Companion to Nineteenth Century Britain,* (Blackwell 2004); GM Trevelyan, *Illustrated English Social History: 4,* (Pelican 1972); EA Wigley, *Continuity, Chance and Change: The Character of the Industrial Revolution in England,* (Cambridge 1990) and Mathias, *The First Industrial Nation,* (3rd edn, Routledge 2001)

[374] See generally, F Crouzet, *The Victorian Economy,* (Columbia University Press 1982); E Hobsbawm, *Industry and Empire: From 1750 to the Present Day,* (2nd edn, Penguin 1999)

[375] See generally, H Perkin, *The Origins of Modern English Society 1780–1881,* (2nd edn, Routledge 2002); EP Thompson, *The Making of the English Working Class,* (Vintage 1966)

[376] See generally, M Pugh, *The Making of Modern British Politics 1867–1939,* (3rd edn, Wiley-Blackwell 2002); O MacDonagh, *Early Victorian Government 1830–1870,* (Weidenfeld and

transformations left the law in an unsuitable state to meet the growing demands of a modernised and urbanised society. Therefore, widespread reform was necessary. [380] Cornish and Clarke[381] undertook a comprehensive socio-legal history of the period in their seminal work, *Law and Society*. They examined the changes to the law and the legal process during this period of upheaval and their work demonstrated how the law moved from a medieval, out-dated system to an efficient, modernised legal system, clearly reflecting the vast changes to society. Their work on the legal profession focused on how the professions reformed in response to the wider changes within law and society.[382]

Manchester[383] has also completed an influential doctrinal legal history of the development of modern law through the eighteenth and nineteenth centuries. This work was a broad, wide-ranging text on the development of law with a general discussion of the development of the legal profession during the industrial revolution.[384] While these works are comprehensive histories of the law and legal developments during the period, they do not address in any substantial way the history of the barrister in the nineteenth century or the address the barrister's public image and reputation in society more generally.

Nicolson 1977); H Pelling, *Popular Politics and Society in Late Victorian Britain,* (2nd edn, Macmillan 1979)

[377] See generally, R Williams, *Culture and Society 1780–1950,* (Penguin 1961)

[378] See generally, DK Fieldhouse, *The Colonial Empires,* (2nd edn, Macmillan 1982)

[379] See generally, DS Landes, *The Unbound Prometheus: Technological Change and Industrial Development in Western Europe from 1750 to the Present,* (CUP 1969); M Robbins, *The Railway Age,* (Penguin 1965); LTC Rolt, *Victorian Engineering,* (Penguin 1970)

[380] See Council of Legal Education (eds), *A Century of Law Reform,* (Macmillan & Co 1901). This is a contemporary appraisal of the key legal changes that occurred in the nineteenth century and provides an excellent sense of the achievement of successive governments and legal organisations in changing the law.

[381] See generally, Cornish and Clark, *Law and Society in England 1750–1950,* (repr. online version 1989)

[382] *Ibid,* chapter 1, Part 2 (V.)

[383] See generally, AH Manchester, *A Modern Legal History of England and Wales,* (Butterworths 1980)

[384] *Ibid*, Chapter 3. s1-8

Historians of the legal profession in England and Wales have examined the process of professionalisation in the early modern period, and this has formed the basis of specialist histories of the bar in the nineteenth century. Generally, Corfield[385] examined the legal professions in her work on the professionalisation and expansion of this social group in an increasingly industrialised England. She has also used satirical sources in examining how the satire of the eighteenth century questioned the power that the professions began to wield. Brooks[386] has examined the development of the lower branch during the early modern period and Prest[387] analysed the development of the barrister's profession during this period also. Lemmings,[388] in his work on *Professors of the Law*: *Barristers and English Legal Culture,* has drawn conclusions on the popular reputation of the barrister in the eighteenth century and explored the concept of the profession's self-image, examining whether it went 'upmarket'.

There have been a number of specialist works investigating the legal professions in the nineteenth century, all of which have been diverse in their focus and approaches, yet none of these works have undertaken an in-depth examination of the public image of the bar and the representation of the legal professions in the press during the nineteenth century.

Abel-Smith and Stevens [389] examined the development of the legal profession through the period and into the early twentieth century, drawing on a

[385] See generally, PJ Corfield, *Power and the Professions in Britain 1750–1850,* (Routledge 1995)
[386] See generally, CW Brooks, *Lawyers, Litigation and English Society Since 1450,* (Hambledon Press 1998), CW Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Profession in Early Modern England,* (CUP 1986)
[387] See generally, W Prest, *The Rise of the Barristers: A Social History of the English Bar 1590–1640,* (OUP 1986)
[388] See generally, D Lemmings, *Professors of the Law. Barristers and English Legal Culture in the Eighteenth Century,* (OUP 2000)
[389] See generally, B Abel-Smith and R Stevens, *Lawyers and the Courts,* (Heinemann 1967)

sociological approach. This work uses a quantitative approach and historiographical source analysis to examine the relationship between the legal professions of the period and society. Nonetheless, their engagement with the press and other popular sources is limited.

It is Raymond Cocks *Foundations of the Modern Bar*[390] and Daniel Duman's *The English and Colonial Bars in the Nineteenth century*[391] that are considered seminal works on the history of the bar in the nineteenth century. These works are comprehensive historical examinations of the development of the bar during the industrial revolution and the subsequent changes that occurred in the profession. Both of these works provide interesting perspectives on the structure, education and regulation of the bar and how they adapted in reaction to changes in law and society but do not look in detail at how the press represented these issues or represented the profession across the medium. This can be an important aspect of an organisations existence and can present, more clearly, the context around the changes that Duman and Cocks examined.

Sugarman has observed "in terms of number of lawyers and their professional organisation and education, the legal profession of the 1880s looks strikingly similar to that of the 1680s, although a major decline in numbers, professional organisation, and education had occurred during the intervening period." [392] However, Cocks has argued that the very structure of the bar underwent a radical reorganisation during this period.[393] He describes the "old

[390] See generally, R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983)
[391] See generally, D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983)
[392] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 262
[393] R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983) 231

way of life,"[394] where administrative and disciplinary affairs of the Inns were mixed with the social day-to-day activities, which were then replaced by specific institutions with particular remits, such as the Bar Council.[395]

Based on Duman's statistical analysis, the numbers of practicing barristers also increased during the first half of the nineteenth century. He calculated that in 1835, there were between 450 and 1,010 practicing barristers, and in 1885 between 660 and 1,450.[396] Whereas Cocks' analysis of The Law Lists, suggests some 600 members in 1800 and almost 9,500 members in 1900.[397] While both suggest an increase in numbers during the period, it can certainly be acknowledged that the number of practicing barristers falls far short of the number called or on the membership lists of the Inns. The amount of called barristers who were politicians, journalists, and members of other liberal professions during the period support this. Duman even referred to the Inns as "one of the principal nurseries of the governing elite."[398]

Sugarman has argued that the bar expanded during the first 50 years of the nineteenth century as a result of "opportunities afforded by the early phases of the industrial revolution, in particular, the enormous legal work generated by the establishment of the railways."[399] This would make sense, especially when the commercial and economic motivations of the barrister were considered. As Rubin and Sugarman so eloquently put it, the "private practice of the lawyer

[394] *Ibid*
[395] *Ibid*
[396] D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983) 8
[397] R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983) 8
[398] D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983) 159
[399] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 264

adopts a form substantially akin to that of an ordinary commercial undertaking."[400] The provision of legal services has always been driven by market forces, and with boom can follow bust. Cocks highlights the concern felt by some within the profession during the 1850s that the profession was becoming too overcrowded.[401] Sugarman has also argued that from 1850 until the end of the century, the number of practicing barristers fell.[402] He attributes this to a squeezing of the junior ranks of the barrister's profession, between the solicitors in the new County Courts,[403] and the elite within their own profession.[404] It was these elite barristers that profited from the increasing work encouraged by the economic and social changes in the second half of the period.[405]

Another question that has been explored in the scholarship of the history of the bar, was where these new barristers originated in the nineteenth century. It is inevitable that the growth in an industrial and professional middle-class affected the rise in the number of barristers. Duman argued against the presumption that the landed gentry supplied the bulk of the bars recruits, and instead argues that the characteristics of the bar were distinctly middle class.[406] Sugarman has also outlined that London and the Home Counties were the "major

[400] D Sugarman and GR Rubin, 'Introduction – Towards a New History of Law and Material Society 1750-1914' in GR Rubin and D Sugarman (eds), *Law, Economy and Society, 1750-1914: Essays in the History of English Law,* (Professional Books Ltd 1984) 87
[401] R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983) 9
[402] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 264
[403] Instituted by the County Court Act (1846) 9 & 10 Vict. c.95. See P Polden, *A History of the County Court,* (CUP 2004) 67
[404] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 264
[405] *Ibid*
[406] D Sugarman and GR Rubin 'Introduction – Towards a New History of Law and Material Society 1750-1914' in GR Rubin and D Sugarman (eds), *Law, Economy and Society, 1750-1914: Essays in the History of English Law,* (Professional Books Ltd 1984) 90. See also D Duman, 'A Social and Occupational Analysis of the English Judiciary 1770-1790 and 1855-1875' (1973) 17 *American Journal of Legal History* 353-364

breeding grounds"[407] of the bar and in 1835 and 1885 respectively, more than a third of the bar came from in or around London.[408] It can also be assumed that the remainder of the profession emanated from the main population centres across England and Wales. Nevertheless, those barristers that were in London did travel to the provinces on circuit, but this declined during the period.[409]

It is the work of the barrister during the nineteenth century that has provided legal historians with particular problems.[410] What can be inferred from existing scholarship is that the work of the bar was driven by economics and the industrial changes indicative of the industrial revolution. Sugarman has explored the relationship between lawyers and business,[411] and this economic nous combined with an inherent adaptability would suggest that for those who could secure work, the nineteenth century provided a plethora of new opportunities.

However, what is known about the bar's work during the nineteenth century shows a distinct gulf between those elite members with highly lucrative practises and those junior barristers who were struggling to make ends meet. The Select Committee on Official Salaries reported that two-dozen barristers earned £5,000 (around £482,000 at 2015 rates) per annum, and 8 of those earned in excess of £8,000 (around £771,000 at 2015 rates).[412] To compare, junior 'briefless' barristers were undertaking journalistic pursuits reporting on legal

[407] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 264, 266
[408] *Ibid*
[409] R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983) 148-149
[410] *Ibid,* 9 and D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 264, 263
[411] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 264, 258
[412] 'Report from the Select Committee on Official Salaries,' *HCPP,* (1850) (611) XV.179

issues and cases in order to supplement their income.[413] This clear disjunction between the briefed and briefless, demonstrates stratification within the profession, and a clear crisis within the junior ranks of the profession.

As far as the specific work of the bar goes, those with successful reputations and proactive clerks were able to capitalise on the "growing pressure on the courts arising from the vast increases in population and commercial activity"[414], performing activities with which the bar are most famous. But, as investigation heads further into the more junior ranks of the profession, the work may diversify to a certain extent. Sugarman has outlined the far from unproblematic demarcation between the work of the barrister, solicitor, and attorney[415] and Able-Smith and Stevens acknowledge the work previously carried out by the junior members of the profession moving to regional solicitors after the introduction of the County Courts.[416] However, etiquette rules that continued to develop during the period prohibited barristers from debasing themselves by undertaking the work of the attorney's or behaving in a manner more befitting of the inferior branch.[417] This may suggest that their work became more restricted during this period and, as a result, a greater gulf emerged between those lucrative practitioners and those struggling for briefs.

There are also numerous examples of barristers who were practitioners, but not exclusively. Duman has stated that during the nineteenth century between

[413] See generally, J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010,* (Palgrave Macmillan 2013)
[414] PS Atiyah, *The Rise and Fall of Freedom of Contract,* (Clarendon Press 1979) 390
[415] D Sugarman and GR Rubin 'Introduction – Towards a New History of Law and Material Society 1750-1914' in GR Rubin and D Sugarman (eds), *Law, Economy and Society, 1750-1914: Essays in the History of English Law,* (Professional Books Ltd 1984) 89
[416] B Abel-Smith and R Stevens, *Lawyers and the Courts,* (Heinemann 1967) 56
[417] WW Pue, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review* 147

11 percent and 20 percent of MPs were barristers[418] and there is evidence of barristers engaging in other activities, such as journalism and literary pursuits, alongside their practice.[419] While it is not the primary aim of this thesis, this thesis will offer a perspective on the work of the barrister in the nineteenth century through an analysis of the reportage of their professional existence in the press.

Able-Smith and Stevens, Cocks, and Sugarman have argued that much more work can be done, and much more material can be engaged with in order to understand the history of the bar in the nineteenth century. All three have highlighted in their works that a vast amount of relevant material has yet to be explored. Cocks explains that "the periodical press, government committees, private papers and other sources still have a great deal to tell us, and it seems reasonable to suppose that further investigations will point to yet more problems in professional development and, ultimately, to more informed generalisations."[420] This thesis will contribute to these calls by examining the representation of the barrister in the under researched press of the period to give us a greater sense of the public image of the barrister in the nineteenth century.

While Cocks, Duman, and Sugarman do use some sources within their work, but their use is limited. This thesis adds to their existing scholarship by presenting a comprehensive survey of the barrister in the press and an important aspect of the bar's public image. Additionally, their works do not focus on how the press could construct a public image of the barrister or lead and reflect public opinion. This limited engagement with press sources is entirely understandable;

[418] D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983) 170
[419] For the rise and fall of the practicing journalist barrister, see J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010,* (Palgrave Macmillan 2013) and for those involved in literary pursuits, see the life of Samuel Warren and Gilbert A'Beckett.
[420] R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983) 230

prior to 2005 and the digitisation of the British Library newspaper and periodical collections, access to press sources was restricted. Many universities, local libraries, and regional archives only had limited collections of popular newspapers and periodicals, such as *The Times* and *Punch,* and specialist regional newspapers. However, since digitisation there has been an increase in accessibility to a wide variety of press resources and all manner of search tools, impossible merely a decade ago. Some of the methodological issues with this source base have been outlined earlier, but it provides a fruitful source collection to enrich our understanding of the profession during this period of great change.

Summary and Reflections

This chapter has considered the conceptual foundations of this thesis, including definitions of popular culture and public image, alongside the theoretical frameworks for the reading of the image (ontology) and the narratology of law. Alongside the above, the historical context has been explored in order to situate this work in the wider histories of the lawyer in popular culture texts, the history and development of the press, and a historiography of the bar in the nineteenth century. These explorations feed into the analysis of sources in this work and provide the underpinnings for the discussions in the following chapters.

The press in the nineteenth century can be considered a text of mass popular culture that is not restricted to high culture. The press of the period is arguably the principal source for the analysis of popular culture within Victorian society. It is these mass characteristics and its ability to lead and reflect popular opinion that makes it an important source in the construction of a public image of the profession. Simply put, if the public image of a profession is how the public

views that profession, and the press both leads and reflects public opinion, then the press can be a principal source to construct a public image of a profession in an historical period.

By using narratology and the ontology of the image, methods of cultural analysis and signification can be used to consider how these textual and visual sources can create motifs and stereotypes of individual professions or professionals. By analysing the public image of the bar in this way, an original contribution can be made to the current historiography of the profession by contributing to existing scholarship as a response to previous calls for investigation. The nineteenth century press can also be more firmly positioned within the cultural history of the law and lawyers in popular sources.

A final reflection from this chapter is that prior to the mass publication of press sources for all of society, the function of the press was different. It can be argued that prior to this period of mass publication, the press merely constructed opinion in the public (where there was access, literacy, availability, etc.), as the public had little or no knowledge of barristers that could be reflected by the press prior to this. Therefore, the establishment of this mass popular press in the late eighteenth and nineteenth centuries means there was a shift in the function of the press and its ability to construct popular opinion, highlighting once more, the importance of the period in the development of a truly popular culture.

Chapter 2

The Representation of the Barrister in the Print Press of the Nineteenth Century

Introduction

The overarching aim of this chapter is to examine the representation of the bar to the public through the printed press during the nineteenth century. This chapter will ascertain how the printed press was instrumental in publicising and popularising the bar in the historical period of study, whilst also contributing significantly to the creation of a mass popular culture. More specifically, it determines how the bar was represented in the press and will explore the nature of the reflection of popular image transmitted through press reporting of the legal process. This chapter contributes to the wider aim of this thesis by exploring how the representation of the bar in the printed press contributed to the construction of a public image of the profession and therefore developed widespread societal perceptions of the barrister during the Victorian epoch.

The Popularisation of the Law and the Bar in the Nineteenth Century Press

This section will argue that the law, and subsequently the barrister, fell under the purview of general interest and specialist newspapers and periodicals, as a consequence of the changes in the press that were intrinsically linked to the vast socio-economic and cultural developments of the industrial revolution (as discussed in the previous chapter).[1] This section will ascertain whether this growth in the press depiction of the barrister established the legal professional as a principal character in the popular culture of the press, and if so, explores why the barrister was a central character in popular culture.

[1] Including, for example, the technological advancements in mass printing; increasing levels of general literacy; a progression towards an industrialised and urbanised populace; the possession of more disposal income.

It has already been discussed that during the industrial revolution various factors led to a substantial increase in the number of publications, a surge in readership, and more widespread class engagement across all facets of the press.[2] It can be argued that this established the press as a more substantial source of popular mass culture, and transcended previously established boundaries between high and low culture.[3]

As a result, the press of the nineteenth century was incredibly diverse. Press publications including newspapers, periodicals, and journals were directed towards a variety of reader's interests[4] including the law and, consequently, the barrister. The focus of this work is the barrister as represented in these legal reports, but the popular nature of the law and legal subjects in the press needs to be explored initially to demonstrate how the representation of the barrister occurred. This is because the most common representation of the barrister in the press of the nineteenth century was through legal reportage.

Law reporting and legal intelligence became a common feature of newspapers in the nineteenth century.[5] By early in the period, these articles were a regular feature in the national and regional press, in daily and weekly papers, and across papers with a wide range of readership figures.[6] These case reports became a source of general and professional interest, but differed greatly from the sensationalist and investigative approach found in modern legal intelligence

[2] See generally, *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (online edition)
[3] J Storey, *Cultural Theory and Popular Culture: An Introduction*, (4th edn, Pearson 2006), 4–11
[4] L Brown, *Victorian News and Newspapers,* (Clarendon Press 1985), 22
[5] J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010,* (Palgrave Macmillan 2013) 16
[6] 'The Word of Law/The Law of the Word' in A King and J Plunkett, *Victorian Print Media: A Reader,* (OUP 2005) 81–121

and crime reporting.[7] This was because in the mid-nineteenth century, 'briefless' barristers often compiled accurate and often legally nuanced reports of cases for the press in an attempt to supplement their sporadic and meagre incomes.[8] However, this relationship between the barrister and the press was in decline by the 1860s as these reports began to be compiled by the growing class of professional journalists.[9]

The number of barristers reporting for newspapers was an important factor in the propagation and popularisation of law reporting in the mainstream press of the period, and for barristers highlighting the work of their profession. It also placed barristers at the centre of this rapidly expanding cultural medium. Rowbotham, Stevenson and Pegg[10] have concluded that barristers were a major component in the success and proliferation of case reporting.[11] Barristers reporting for newspapers essentially acted as in-court correspondents, and while it ensured that law reporting was accurate and well informed as mentioned above, it also provided a convenient source of news.

The importance of the barrister in providing the press with precise and regular reporting of cases can be seen during the 'battle' between the press and the bar in 1845.[12] This dispute was based around the Oxford Bar Mess, led by Thomas Telford (who opposed the motion) that had banned its barristers from

[7] See generally, J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013)
[8] J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013) 23-25
[9] See L Brake and M Demoor, *Dictionary of Nineteenth century Journalism in England and Ireland,* (Academia Press 2009) 147–148
[10] See generally, J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013)
[11] *Ibid*
[12] Unaccredited, 'The Queen, The Bar and the 'Times'' in (1845) 1 *The Oxford and Cambridge Review* 384-386

reporting for newspapers. *The Times* responded by omitting the names of barristers from its reports.[13] This decision by the circuit mess[14] also caused the press to launch vehement attacks on the bar through the press.[15] The fervent response by the press demonstrates how valuable the barrister was to the constant appearance of law reporting in the mainstream press, especially when the circuit courts were in session. Due to this system of circuit courts,[16] it was extremely expensive and time consuming, even for the principal daily newspapers, to send reporters out on circuit. Therefore, the availability of barrister reporters on circuit was important to the continued appearance of law reporting in the press.

However, the power of the press forced the Oxford Bar Mess to quickly overturn their ban, allowing barristers to resume their reporting. This could indicate the appetite for such information by the public, but also, more importantly, reveals the power of the press in relation to the bar's affairs and their public image. Without featuring as named counsel, barristers are not afforded the exposure that was vital to their survival due to prohibitions by etiquette for advertising.

Featuring in news reporting had the virtue of being the sole means by which a barrister could advertise himself; therefore, sustained law reporting was vital to the success of the profession. Etiquette was a system of regulation based

[13] "counsel for the prisoner" - *The Times,* 2 August 1845; "for the defendants it was urged" – *The Times,* 9 August 1845; "two of her majesty's council 'learned in law' and a junior appeared for the prosecution; the prisoner was defended by counsel." *The Times,* 22 August 1845

[14] The circuit mess was the committee that administered the affairs of the individual circuit.

[15] For a discussion of the attacks in *The Times,* see generally D Pugsley, 'Mr Justice Telford & the Western Circuit' (2006) *Society of the Western Circuit Newsletter* but see also *Punch* (1845) vol. 9, 113 and *Punch* (1845) vol. 9, 121

[16] The division of the courts into provincial circuits so cases could be heard in regional capitals, not just in London

around practice-related rules, social norms and professional (legal) custom.[17] This etiquette was an unwritten set of rules that a barrister had to adhere to in his social and professional life. All barristers during this period were male and adhered to this strict system of unwritten rules.[18]

Duman[19] has explored nineteenth century legal etiquette and divided it into four distinct, but not separate, categories. The first were rules defining the parameters of professional practice and the relationship between barrister and lay client. The second were restrictive practices relating to the employment of barristers. The third were regulations concerning the conduct of barristers on circuit, and the fourth concerned the rules of circuit membership.[20] Duman also stated that most of the unwritten rules were rules with "general applicability"[21] and regulated barristers' professional and general social conduct in order to uphold the reputation of honour and professionalism attached to the institution.

Rules of etiquette were based upon social conventions and can be described as reflecting the colloquial 'Victorian values.' The Inns of Court also used these rules of etiquette to maintain a professional monopoly in the nineteenth century with one rule being that all chambers in London had to be located within one of the Inns.[22] This maintained the Inns' control as the regulatory body of the profession and prevented breakaway chambers possibly

[17] See generally, D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983)*;* RL Abel, *The Legal Profession in England and Wales,* (Blackwell 1988) 41
[18] *Ibid*
[19] *Ibid*
[20] *Ibid*
[21] *Ibid*
[22] RL Abel, *The Legal Profession in England and Wales,* (Blackwell 1988) 90

establishing alternative legal systems and services.[23] Rules of etiquette limited professional competition[24] and controlled the bar's financial motivation.[25]

A relevant example is that barristers in the nineteenth century were prohibited from seeking work and etiquette forbade them from advertising or soliciting for business. It was the responsibility of the barrister's clerk to maintain good relations with attorneys and solicitors in order to promote their chambers.[26] These rules also extended to rules restricting transfers between the solicitor's branch of the profession and the bar,[27] and even barred socialising between barristers and solicitors other than in the course of professional practice.[28] As unwritten etiquette prohibited a barrister from advertising formally for briefs, to feature by name in a published law report was the sole way in which a barrister could advertise his name and rhetoric to potential attorneys and clients. This further highlights the importance of the depiction of barristers in the press and the willingness of barristers to contribute to the successful and accurate reporting of trials and cases. The sustained and regular reporting of barristers in court was important to the continued exposure of the profession and individual practitioners, and when coupled with the public desire for law reporting, goes some way to explain the overturned decision by the Oxford mess.

[23] *Ibid*
[24] One such rule was that a barrister must refuse a brief if another had already been briefed fully on it. This rule is very similar to the present 'cab rank' rule, in which a barrister must take the first case he receives, clearly a modern practice rule with a basis in the nineteenth century
[25] A fee was an 'honorarium' and therefore a barrister could not sue solicitors or clients for fees. This also led to the prohibition of contingency fees. In order to maintain an acceptable standard of practice and professionalism, barristers were prohibited from entering into 'no win, no fee' style arrangements as the profession's pretence was that economic gain was of little or no importance.
[26] RL Abel, *The Legal Profession in England and Wales,* (Blackwell 1988) 91
[27] *Ibid*
[28] *Ibid*

The press acted as the primary method through which the public engaged with legal stories in the nineteenth century and, due to the input of barristers, were highly factual often focusing on the legal nuances within the trials and cases represented. The verbatim style of reporting often listed many facts, points of evidence and legal questions raised by the barristers within the court, along with the testimony of suitors, defendants and witnesses, and the opinions of the judges presiding.[29] This legal accuracy, combined with precise and regular reporting, gave the public intimate details of the cases and the individuals involved.

The general public also had an interest in criminal cases and other important civil suits.[30] It has been established by scholars that Victorian society had a keen interest in legal subject matter,[31] but more in the principal 'characters' and 'stories' found in these cases, not necessarily the procedure itself.[32] As Rowbotham et al have stated, "There has been an enduring public thirst for crime news narratives, presented through the frames of investigation and arrest, followed by trial and punishment."[33] The public interest in legal cases ensured that they were a core feature in many nineteenth century publications,

[29] One example is the case of R *v.* Courvoisier [1840] 173 ER 869 (1688-1897) and its reportage in *The Times,* 19 Jun 1840. The actions and words of counsel, defendant, the judge and a number of witnesses are reported in detail.
[30] See generally, J Rowbotham and K Stevenson (eds) *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (Ohio State University Press 2005)*;* R Crone, *Violent Victorians,* (Manchester University Press, 2012); more generally, G Orwell, 'The Decline of an English Murder' in G Orwell, *The Decline of an English Murder and Other Essays,* (Penguin Classics 2009) 15–20
[31] See also, J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013)*;* R Crone, *Violent Victorians,* (Manchester University Press, 2012)
[32] See generally, P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale UP 1998)
[33] J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013) 6

popularising the medium and propagating the representation of the barrister to large numbers of the population.

There are a number of arguments that can be made as to why legal subject matter featured so heavily in the press of the nineteenth century. The first argument is related to the aforementioned popular nature of law within the preceding historical periods, and this thesis proposes that this merely continued into the Victorian epoch. The popular nature of law prior to the nineteenth century meant that all classes of society had an interest in law and jurisprudential themes, and the rapidly expanding press provided a new medium for law, and subsequently representations of the barrister, to be communicated to society as a whole.

The second argument is that the narrative nature of law and the legal process was perfect for press publications. As mentioned earlier, the narrative nature of the legal process presented 'ready made' stories with a raft of characters in a setting that often intrigued, captivated, or disgusted its readers.[34] The individual characters often fitted significant motifs and themes, with the setting of the court acting as a perfect 'stage' for the enthralling stories told in court,[35] the characteristics of law itself mean that it has always had a close relationship with the tropes of literature.[36] Due to the growth of the press during this period, these publications chose to report legal cases because they were easy, accessible and had narrative features. It is argued here that criminal cases possessed characteristics and themes found in literature and other fictional

[34] See generally, P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale UP 1998)
[35] RA Posner, 'Narrative and Narratology in Classroom and Courtroom' (1997) 21(2) *Philosophy and Literature* 292
[36] See generally, M Aristodemou, *Law and Literature: Journeys from Her to Eternity,* (OUP 2000)

texts,[37] whilst the subject matter of civil cases very often intrigued the public due to their scandalous topics of investigation.[38] The law and the legal process innately lend themselves to being reported in the press because of the case subject matter and their narrative features.[39]

The third strand of argument is that press reporting of the legal process continued the tradition of the gallows by acting as a medium to signify messages of deterrence, humiliation and retribution. In much the same way that public executions had acted as a deterrent to illicit behaviour, as a site of ritualistic humiliation, and as a forum through which the public observed vicarious communal retribution; the press became the new medium through which these messages were transmitted to and received by the public.

A further argument is that the press reporting of crime and court processes acted as a form of 'morality' play for the modern age, promoting deterrence against wrongdoing. The morality plays of the medieval age travelled to market towns to perform biblical parables and moral tales for public entertainment.[40] These were tales and parables that affirmed such lessons to society were also taught in church every Sunday, often related to the rules and laws that governed behaviour. However, as the reliance on religion to guide behavioural practices and regulate social norms declined, the legal cases and criminal trials reported in the press's publication of legal issues acted as a deterrent to some illicit

[37] Notorious criminal cases were often given titles that could have come straight from mystery or crime fiction. Examples are provided later but include cases such as 'The Pimlico Mystery' (R *v.* Bartlett) or The Case of the Ruggley Poisoner' (R *v.* Palmer)
[38] See an example in 'The Tranby Croft Affair' (Gordon-Cumming *v.* Wilson)
[39] See generally, P Brooks and PD Gewirtz, *Law Stories: Narrative and Rhetoric in Law,* (Yale UP 1998)
[40] See generally, R Potter, *English Morality Plays: Origins, History and Influence of a Dramatic Tradition,* (Routledge 1975)

behaviour. *Punch* even represents this in pictorial form[41] in their Almanack for 1850, clearly representing the court set up as a morality play, on a market stage with the barrister drawing in a crowd.

Closely linked to this concept of deterrence was the notion of public ritualistic humiliation as punishment and as a warning to others. The criminal history of England and Wales reveals many forms of public and ceremonial punishment, for example branding, pillorying and public whipping.[42] These punishments were clearly designed to humiliate the offender, whilst also demonstrating Crown or feudal control. It also sought to deter other members of that community or wider society from committing the same offence.

Another proposition as to the popularity of such reporting is that as the public spectacle of executions and humiliating punishments declined,[43] a market for the in-depth reporting of the same remained. The press acted as a medium through which this humiliation could be reported and the subsequent display of state control was apparent, which was especially important considering the instability caused by the continental revolutions in the preceding century.[44] This also applied to civil cases. The humiliation and scandal that could arise from the interrogation of one's individual behaviour and the public exposure of personal affairs could act as a particular deterrent for future illicit behaviour.[45] This public

[41] *Punch*, 22 Sep 1849
[42] See generally, W Andrews, *Medieval Punishments: An Illustrated History of Torture,* (Skyhorse Publishing, 2013)
[43] As Foucault has stated "At the beginning of the nineteenth century, then, the great spectacle of physical punishment disappeared; the tortured body was avoided; the theatrical representation of pain was excluded from punishment." In M Foucault, *Discipline and Punish: The Birth of the Prison,* (Vintage Books 1977) 14
[44] The French Revolution being the key political and social panic of the late eighteenth and early nineteenth century.
[45] R McGowen, 'Civilizing Punishment: The End of the Public Execution in England' (1994) 33(3) *Journal of British Studies* 257, 269

humiliation was distributed on a far greater scale due to the nature of press publications and provided a clear and graphic deterrent against crime and public disorder. The reporting of real-life trials and criminal procedure in such a complete manner, often from crime to punishment or execution, arguably gave the public an opportunity to perceive a sense of justice.

Although there was significant reform to prisons and the condition of prisoners throughout the period of study,[46] society had a greater focus on retributive justice than on rehabilitation. Cockburn noted that in the eighteenth century popular culture "endorsed the notion of retributive justice as part of the divine scheme of things."[47] This desire for retribution was no different in the nineteenth century. The public wanted to read reports of how those that committed crimes received the punishment they deserved.[48] This was also true for civil cases. Certain spheres and classes of Victorian society were very moralistic, governed by social etiquette and collective class custom. For example, if someone breached trust obligations, defamed others, or even broke contractual obligations, the public needed to see them punished for their indiscretions. This concept of retribution can be coupled with the concept of making society feel safe through reprimanding those viewed as dangerous to the public.

Furthermore, the social changes indicative of the industrial revolution led to the founding of a robust capitalist community that subsequently adjusted the priorities of a large proportion of the populace. Individuals from all classes were concerned with upholding the capitalist status quo, maintaining industrial output

[46] M Foucault, *Discipline and Punish: The Birth of the Prison,* (Vintage Books 1977) 87
[47] Cockburn cited in P Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century,* (CUP 1992) 163
[48] CKB Barton, *Getting Even: Revenge as a Form of Justice,* (Open Court 1999) 136

and encouraging commercial and financial growth. Therefore, commercial cases were of interest to industrialists and workers alike. This dedication to commerce encouraged a retributive outlook towards those who contravened the new social conventions embodied in commercial affairs.[49]

It can also be argued that society in this period had a macabre fascination with violence, and this manifested itself through their obsession with crime and punishment.[50] Rowbotham, Stevenson, and Crone have recently undertaken substantial research into this area and examined the effect of crime reporting in the press on Victorian society.[51] Even in this age of improvement,[52] the Victorians still possessed a bloodthirsty and morbid interest in violence. Crone explores this in some depth,[53] and even explores the Victorian interest in gory pastimes such as Madame Tussaud's Chamber of Horrors and travelling circus sideshows.[54] This may have been a social relic from the violent past of public execution and humiliating public punishment. The press was a medium through which the public could still engage with crime to satiate this grisly social obsession.

Crone has argued that engagement with crime and reading about the punishments dispensed, dissuaded some members of the public from carrying out such crimes themselves, describing their engagement with this type of literature and press publications as 'vicarious participation'.[55] However, this thesis contends that it was not an issue of 'sating' their 'blood lust' through vicarious

[49] GR Searle, *Morality and the Market in Victorian Britain,* (Clarendon Press 1998) 78-79
[50] See generally, J Rowbotham and R Stevenson, (eds) *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (Ohio State University Press 2005)*;* R Crone, *Violent Victorians,* (Manchester University Press, 2012)
[51] *Ibid*
[52] See generally, A Briggs, *The Age of Improvement,* (Longman 1965)
[53] See generally, R Crone, *Violent Victorians,* (Manchester University Press, 2012)
[54] *Ibid,* loc. 5193 (e-book reference)
[55] *Ibid,*

participation, but that the press merely continued this popular culture of legal material from the preceding centuries. The press allowed the public to substitute their earlier, more direct participation in legal phenomenon with vicarious press experience, particularly around execution and criminal process. It is this vicarious participation that placed legal stories at the heart of the nineteenth century press.

This major general public interest in legal subject matter led to the emergence of a whole genre of crime publications. Newspapers such as *The Illustrated Police News* (subtitled *Law Courts and Weekly Record*) were often considered apart from the mainstream press due to their individual focus on crime stories. They regularly reported the explicit and often striking details of crimes, and their covers often featured graphic illustrations of the crimes reported on in their pages.

The Illustrated Police News was arguably the most successful crime paper with a regular weekly circulation of around 150,000 to 200,000 copies. It gained exceptional notoriety during the period, as its cover had the ability to shock and disgust the public with vivid illustrations of the crimes reported within.[56] Furthermore, *The Illustrated Police News* and other crime papers were distributed at a penny an issue, clearly marketing themselves at the lower, working class market, and were considered a working man's paper, more low-brow than their mainstream counterparts.[57]

The newspaper reporters in the police courts frequently used the precise style of law reporting found in other publications of the period. This manner of

[56] See *The Illustrated Police News* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (online edition)
[57] *Ibid*

reporting habitually followed the narrative of these crimes, outlining how they were committed, the investigation and capture, the trial of the criminal in question, their subsequent sentence and punishment (often execution). The substantial reporting of trials by these publications, and the digests of less notorious trials and cases, placed the criminal, the barrister, and the judge at the heart of the story. Barristers featured in cover illustrations and textual reports, feeding the public appetite for crime and punishment, and in turn the popularisation of the barrister.

Law also occasionally appeared in crime fiction magazines. These "Penny Dreadfuls"[58] were cheap pulp magazines, generally retailing at 1d, aimed at a new market of young adolescent boys. These magazines were written to excite and thrill with tales of adventure and to scare and repulse with tales of crime. Crime, law, and the legal process also formed a major subject of these types of fictional publications, demonstrating another sphere of the press and popular culture within which the barrister featured.

Although this thesis does not specifically focus on the specialist fictional press, the legal professions did also appear in numerous other forms of print culture during the nineteenth century. The bar appeared in the works of Charles Dickens, Samuel Warren and Anthony Trollope. Selected works by these authors appeared in novel form and as serial releases in various magazines and periodicals. These papers may not be the focus of this work, but they demonstrate how law and the legal process were an important aspect of popular culture of print in the nineteenth century.

[58] See generally, M Anglo, *Penny Dreadfuls and Other Victorian Horrors,* (Jupiter 1977)

The nineteenth century continued to popularise law as culturally significant, and the barrister was an important focus of cultural and media representation during this period. The public fascination with law, crime, and criminals places the legal process and, more importantly, the barrister at the heart of press reporting and the public consciousness. It is argued that the mass growth in the press, the creation of the first mass 'popular culture,' and the importance placed on law reporting and legal intelligence by many spheres of Victorian society thereby popularised the barrister. This was due to the public nature of their professional activity and their recognition as the senior branch of the legal profession. This thesis will now demonstrate how the press represented the bar specifically in the nineteenth century.

The Representation of the Barrister in the Nineteenth Century Press

This section will examine how the press of the period represented the bar and how the barrister was depicted in the specific cases outlined in the methodology, by newspapers and magazines, specifically in the mainstream and satirical press. This section also progresses towards achieving the overall aim of this thesis by examining the representation of these legal professionals in the *causes célèbres* reported in the newspapers and periodicals that were outlined in the methodology outlined in this thesis.

The Barrister in the Mainstream Press of the Nineteenth Century

Barristers regularly appeared in the mainstream press. Newspapers,[59] news periodicals,[60] popular periodicals,[61] and illustrated journals[62] each reported

[59] Such as *The Times* and *Lloyd's Illustrated Weekly Paper*

on trials extensively. Many individual barristers became illustrious or infamous and it was these representations that were a principal source in the construction of a diverse and nuanced public image of the barrister in the nineteenth century.[63]

The public image of barristers was shaped by their frequent appearance in the mainstream press. The mainstream press consisted of newspapers, news periodicals, popular periodicals and illustrated journals. Newspapers, such as *The Times* and *Lloyd's Illustrated Weekly Paper*; news periodicals, such as *John Bull* and the *Pall Mall Gazette*; popular periodicals, such as *Punch, Fun* and *Judy*; and Illustrated Journals, such as *The Illustrated London News* and *The Illustrated Police News,* all reported extensively on trials. It can be argued based on the history of the press in the nineteenth century that the mainstream press was the medium of popular culture that reached the greatest number[64] and, it can therefore be argued that it was the greatest influence on popular culture in the period.

The in-court exploits of barristers consistently featured in the mainstream press reporting of legal cases. Law intelligence and case reports were obviously published in the professional periodical press,[65] but more importantly, they were also a regular and widespread feature in the mainstream press.[66] Case proceedings, subsequent decisions, and the conduct of individuals (including the

[60] Such as *John Bull* and the *Pall Mall Gazette*
[61] Such as *Punch, Fun* and *Judy*
[62] Such as *The Illustrated London News* and *The Illustrated Police News*
[63] An example of a positive editorial is *The Times*, 20 Nov 1849 and a negative example in *The Times,* 25 Jun 1840.
[64] See above – The History of Press Culture in England
[65] See S Vogenauer 'Law Journals in Nineteenth Century England' (2008) 12(1) *Edinburgh Law Review* 26
[66] RA Cosgrove, 'Law' in J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 11

defendants and/or plaintiffs, witnesses, judges and centrally, barristers) within these cases were discussed and examined in editorial letters and commentary. General interest news periodicals, such as *John Bull* and *The Pall Mall Gazette,* and satirical publications,[67] such as *The Age,* often discussed, debated and commentated on professional conduct and competence.[68]

In order to get a sense of the scale of this mass reporting, there were 136,388 cases heard in the Old Bailey alone during the nineteenth century[69] of which there was 19,728 individual Old Bailey session reports published in the press.[70] 11,219 of these were reported between 1800-1849 and 8, 509 between 1850-1899.[71] However, this decrease in the number of Old Bailey sessions reported through the period appears to be an anomaly as the reporting of Assize Sessions increased between the two halves of the nineteenth century. There were 26,534 Assize sessions reported in the press of the nineteenth century,[72] with 5,627 between 1800-1849 and 16,471 between 1850-1899.[73] There was a similar pattern to the reporting of various other trial (and case) reports. There were 13,269 trial reports in the press, [74] with 1,980 between 1800-1849 and 11,289 between 1850-1899.[75] The same can be observed in specific sections on Legal Intelligence. In the first half of the nineteenth century press publications presented 665 legal intelligence features, compared to 2,219 features in between

[67] Satirical publications will be discussed later in this chapter
[68] *Age and Argus,* 28 Sep 1844
[69] Taken from the Old Bailey Online (oldbaileyonline.org)
[70] References to Old Bailey Sessions taken from the British Library Newspapers Online between 1800-1899.
[71] *Ibid*
[72] References to Assize Sessions taken from the British Library Newspapers Online between 1800-1899.
[73] *Ibid*
[74] References to Trial Reports taken from the British Library Newspapers Online between 1800-1899.
[75] *Ibid*

1850-1899.[76] The changes in the numbers of this reportage across the nineteenth century can be seen in appendices 1-4.

While reporting of the Old Bailey session's declines through the period, reporting of Assize sessions, trial reports and legal intelligence increases, with a distinct peak during the 1850s and 1860s. It can be argued that these increased numbers demonstrates a number of changes that effected the reporting of the legal process. The popularisation of legal affairs in the first half of the nineteenth century meant that more newspapers began to report and cover legal intelligence and court reportage. This thesis has already explored the popularisation of legal subject matter in the period and this popularisation will be returned to throughout. The ever-expanding press of the nineteenth century, particularly newspapers published in regional urban centres, also meant that there was more diverse coverage of legal subject matter across the whole country with a focus on cases of national and local interest. In turn, this growing network of newspapers meant that regional newspapers were able to draw upon reporting in other national and regional papers to share news or fill their columns.[77]

The sheer increase in the number of news publications would also have given rise to more reporting of legal process, particularly as the law was so central to press reporting. Additionally, as newspapers became more frequent and central to society, weekly newspapers become daily newspapers (particularly

[76] References to Legal Intelligence taken from the British Library Newspapers Online between 1800-1899.
[77] There are numerous examples of regional press drawing upon national newspapers, see for example, the Trial of the Chartists in the *Glasgow Herald,* 6 Oct 1848 which drew information for the article from *The Morning Chronicle.*

regional newspapers)[78] and would have reported much more diverse legal subject matter. Finally, the shift in numbers for assize reporting and reporting of the Old Bailey sessions is also indicative of the move away from the focus on legal intelligence centred on the metropolis and, within the context of social and legal evolution, the rise of the regional capitals and the established, industrial cities as sites of legal interest. The press gave focus to the administration of justice across the country, not just in London.

While these aforementioned statistics are macro-analyses of the level of legal reporting in the press of the nineteenth century and are intended to provide an indication as to the quantitative effect of the press on the popularisation of the law, the focus of this thesis is the representation of the bar during this period. In order to undertake a detailed examination, this thesis has drawn upon the sources outlined in the methodology section of this work to ensure a manageable sample could be examined in detail and the content of these reports can be considered. These cases have also acted as a stepping-off point to examine certain cases and individuals with more precision, particularly in the provincial press.

Of the 6 cases and 9 newspapers outlined in the methodology of this work, there were 135 individual reports of the cases being heard. These publications represented the barrister in a myriad of ways and reported the cases in various levels of detail. The barrister was, at very lest named in all but two individual reports and these two reports did still refer to counsel, but did not name them or make any representation on their character or professional skill. Other reports

[78] One example is *The Liverpool Mercury,* which moved from being a Friday weekly to a daily in 1858, while keeping a longer special Friday edition. See *The Liverpool Mercury*, in the British Newspaper Archive.

comment directly upon the barrister's skill and conduct, both favourably and negatively. Over 28 reports depict the barrister through positive language or praise for an aspect of their professional behaviours, where as 20 reports depict the barrister in a negative way. Nevertheless, the majority of these reports (68 in total) reported the bar in a factual way or just as named individuals in the case. Yet, in all 135 of these reports, barristers are represented in some way. This has been visualised to demonstrate the quantitative differences of representations of the barrister and can be seen in appendix 5.

To reiterate what was outlined in the introduction to this work, the cases that make up the sample for examination in this chapter were selected due to their notorious nature as *cause célèbres* across the whole nineteenth century and their previous examination by scholars. The reason for selecting these *cause célèbres* was because they received wide and far-reaching coverage across the national and provincial press, and it can be argued that they reached the biggest cross-section of society in a quantitative sense. These cases were identified in order to ensure that the representation of the image presented to the pubic by the press was sufficiently mass and cross-class in order to make an assessment as to the comprehensive public image constructed in the public mind. These cases were also selected from across the two principal spheres of a barrister's practice, specifically criminal and civil cases. This was done in order to ensure a sufficient level of qualitative investigation could be undertaken to analyse the content of these pieces and present the nuanced representation of the bar in the period. This thesis will now explore the qualitative manner of representation of the barrister in these cases and publications, broadening to include some provincial newspapers and publications.

Law reporting in the mainstream press was functional and largely highlighted the inherent professionalism of barristers. Readers were also able to appreciate the role that the barrister played within the legal process. This accurate and legally nuanced manner of reporting was supported, and subsequently provided, by the abundance of barristers willing to act as court correspondents.[79] The inclusion of clear and concise law reporting allowed the public to engage with the law, and take an active and accurate interest in the legal process.

The regular and consistent, functional and factual representation of the barrister transmitted an image of the bar as professional and efficient in carrying out their duties. That is not to say that there were not numerous occasions when a barrister's conduct was considered scandalous. An example of which is Mr Charles Phillips' defence in *R v. Courvoisier*.[80] There were also examples of the barrister being held in high esteem, such as Sir Edward Clarke's forensic triumph during the summing up in 'The Baccarat Case.'[81] However, the general representation of the barrister in the mainstream press was one of factual representation. The public were presented with an image of barristers based on such representations, and encouraged a view of barristers as proficient individuals who displayed an adept attitude towards their professional conduct. As these reports were often detailed, near verbatim, reports there is clearly some accuracy in these representations and, when combined with the bar's disciplinary affairs (see later in chapter five) it can be argued that the bar were largely proficient in undertaking their professional activities.

[79] See generally, J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013)
[80] *R v. Courvoisier* [1840] 173 ER 869 (1688-1897)
[81] *Gordon-Cumming v. Wilson and Others* [1891] (Royal Baccarat Scandal)

More often than not, barristers were represented in the mainstream press through factual news reports that neither criticised nor acclaimed them.[82] Therefore, this transmitted a motif, or perception, of barristers as vital to the efficient functioning of the legal process and linked to the overall effectiveness of justice. These representations of the barristers were transmitted to the public with an incredible level of detail through press reporting, something that is unheard of in contemporary news reporting. This can be clearly seen upon analysis of the press reporting on the case of *Gordon-Cumming v. Wilson*,[83] widely known as the Royal Baccarat Scandal or The Tranby Croft Affair.

Due to the high-profile nature of the case, the barrister featured front and centre, specifically Sir Edward Clarke, the Solicitor General. This case concerned a claim for libel by Sir William Gordon-Cumming against Arthur Wilson. The supposed libel had occurred over a game of baccarat at Wilson's country estate, Tranby Croft. Arthur Wilson's son, Stanley, had apparently witnessed Gordon-Cumming cheating. The case became a widespread sensation in late Victorian England, as baccarat was an illegal game at this time. It also revealed the upper classes, including HRH the Prince of Wales, later King Edward VII, undertaking a perceived immoral pastime and engaging in an illicit activity. Society, especially the poor, was compelled to follow this account of the rich undertaking such debased activities. This scandal demonstrated that the sins of the poor were no different to the sins of rich.

[82] This can be seen in the map of the content analysis found in appendix 1.
[83] *Ibid*

Lloyd's Weekly Newspaper[84] and *The Pall Mall Gazette*[85] reported the case in full. As did *The Times,*[86] who even reported the request by counsel (Sir Edward Clarke, Solicitor General, counsel for the Plaintiff, and Sir Charles Russell, counsel for the defendants) to appoint the date of trial. This source demonstrates how the press represented a *cause célèbre* such as this from arraignment to sentence, and extensively reported the actions of the individual barristers within it. Even if the reports were factual or in a standardised reporting style, the public would still be given an in-depth and comprehensive insight into the proceedings, evidence and, more importantly for this work, the individual barristers in the case.The detail within this reporting was considerable. For example, *The Times* reported proceedings from the court every day, and reported the proceedings across a number of columns each day. On the first day of the hearing the case was reported across 6 and a half columns, over a whole page.[87] On the second day, the case took up 5 and half columns,[88] and this was consistent for the remainder of the case.[89] The case report in the press outlines the facts of the case at the very beginning of the proceedings in great detail, akin to the professional law reports.[90]

Each individual barrister in the case is reported in precise fashion, so every word of their arguments is broadcast to the population.[91] This includes their interventions. For example, while the Solicitor-General, Sir Edward Clarke delivered his opening argument; he is interrupted by Sir Charles Russell to clarify

[84] *Lloyd's Weekly Newspaper*, 29 Mar 1891, 7 Jun 1891, 14 Jun 1891
[85] *The Pall Mall Gazette,* 1 Jun 1891, 3 Jun 1891, 4 Jun 1891, 5 Jun 1891, 9 Jun 1891
[86] *The Times,* 13 May 1891
[87] *The Times,* 2 Jun 1891
[88] *The Times,* 3 Jun 1891
[89] *The Times,* 4 Jun 1891, 5 Jun 1891, 6 Jun 1891, 9 Jun 1891, 10 Jun 1891
[90] *The Times,* 2 Jun 1891
[91] *Ibid*

a point on the calling of witnesses. Later in the case, the process of objection and judicial intervention is also represented as the parties disagree over the status of a copied letter. These long displays of oratory and examples of legal sparring demonstrated to the reading public various aspects of the legal process, and represented the fundamental place of the barrister within the process. It also represented the intelligence of the barristers and their acute eye for detail. These individual interventions and technical legal points would have encouraged this idea of the barrister as learned and constructed signs around the bar as a knowledgeable profession.It also signified aspects of the barristers argumentative professional roles, as well as their skills as powerful and authoritative advocates. This level of detail clearly explains how *The Times* and other press publications became the legal commentators of the age, and how the barrister must have been a widely understood professional in the period. Obviously, this was one of the most notorious cases of the late nineteenth century due to the involvement of the Prince of Wales, so may not necessarily be a measure of detail in all reporting of the period, but it is comparable to the reports of Parliament which is often verbatim.

These case reports and representations of the barrister's professional practise were also reported in the provincial press; including Newspapers such as: *The Birmingham Daily Post,*[92] *The Leeds Mercury,*[93] *The Belfast News-Letter,*[94] *Manchester Courier and Lancashire General Advertiser,*[95] *Evening Telegraph and Star,* and *Sheffield Daily Times*,[96] *The Devon and Exeter Daily*

[92] *Birmingham Daily Post,* 2 Jun 1981
[93] *The Leeds Mercury,* 2 Jun 1981
[94] *The Belfast News-Letter,* 2 Jun 1981
[95] *Manchester Courier and Lancashire General Advertiser,* 2 Jun 1981
[96] *Evening Telegraph and Star and Sheffield Daily Times*, 2 Jun 1981

Gazette,[97] and many others. The interest of the public in this case is emphasised within the paper itself, with the *Manchester Courier* stating, "Though the baccarat case is the great topic of conversation, it is remarkable how much interest is taken, not just by politicians but by men of all classes."[98] This is because much like the daily London papers, the provincial press represented a verbatim or abridged version of the trial report, meaning that barristers featured heavily. For example, Sir Edward Clarke is described by the *Birmingham Post* as beginning his opening statement in his "usual terseness"[99] suggesting a concise, if not curt, manner of address. More importantly, the phrase also assumes that the public would have some prior knowledge of this manner of address, clearly strengthening the case for Clarke as an important public figure in the nineteenth century. This also signifies the professional manner of the barrister and their skills as excellent advocates.

The public interaction with these cases was not just through the press, but also physically within the court. *The Times* described the preparation being undertaken within the court to accommodate additional spectators, and the special measures being undertaken to limit the same.[100] It is reported that "very stringent regulations as to admission to the court in order to prevent overcrowding have been issued by Lord Coleridge." [101] It clearly provides evidence for the popularity of legal proceedings in the press by outlining how thirty press seats had been allocated in the public gallery.[102] It is clear that the

[97] *The Devon and Exeter Daily Gazette,* 2 Jun 1981
[98] *Manchester Courier and Lancashire General Advertiser,* 2 Jun 1981
[99] *Birmingham Daily Post,* 2 Jun 1981
[100] *The Times,* 30 May 1891
[101] *Ibid*
[102] *Ibid*

press engagement with this legal hearing was substantial, but this was normally the case for many legal proceedings in the period.

Attending court was typically a pursuit for middle-class women[103] in London, and due to the narrative nature of the legal process, it can be argued that many women may have seen a day at the courts like a day at the theatre. *The Pall Mall Gazette* referred to the fact that "many ladies had provided themselves with opera glasses"[104] and reported "ladies were early admitted to reserved seats in the court."[105] *The Pall Mall Gazette* also questioned the suitability of female attendance at criminal cases at the Old Bailey by outlining that "the details of the case are by no means delicate, and yet alike on the floor of the court and in the public gallery all the best seats were occupied by women".[106] *The Pall Mall Gazette* even went as far as describing the attendees as being "fashionably-attired"[107] and "queuing outside the court before the iron gates of the Royal Courts of Justice were open,"[108] in order to ensure they had the best seats in the most high-profile cases. This paper also acknowledged the Victorian lust for crime by describing the "great crush at the Old Bailey...as there always is, indeed, when there is a murder trial on the calendar".[109]

This is an interesting snapshot of Victorian life and the role of women in Victorian England. Courtrooms were certainly gendered spaces in the nineteenth century.[110] All barristers, solicitors and judges were male. Juries were made up of

[103] *Pall Mall Gazette*, 12 Apr 1886
[104] *Ibid,* 1 Jun 1891
[105] *Ibid*
[106] *Ibid*
[107] *Ibid*
[108] *Ibid*
[109] *Ibid*, 12 Apr 1886
[110] C Parolin, *Radical Spaces: Venues of Popular Politics in London 1790-1845,* (ANU E Press 2010) 88

men. Women were only permitted in the public gallery. However, commentary from the press suggests that women were certainly interested in the legal process and crime for a number of reasons. They may have been interested in the emerging narratives within the court, the macabre subject matter, the desire to be engaged in a fashionable pursuit, or even as a place to participate in democracy and the rule of law; a political space where their participation had been, and still was, limited.[111] Attending court provided women opportunities to access these inherently male spaces and make their presence felt. This was especially important when there was a female defendant as this was an opportunity for radical women to support a fellow female, but also to engage in such political radicalism. Parolin has highlighted how the British courtroom was a "contested site of power and gender relations."[112] For those in the middle class and upper classes of Victorian society, men and women lived within separate spheres[113] and this was a place for women to engage with civil society.

However, if an individual could not attend in person then the progress of the trial could still be followed via the press.[114] Vicarious participation in such cases demonstrates how the press become a substitute for direct, experiential engagement with the legal process, particularly as people could not always attend court but would still be interested in following these high-profile cases. Reporting such as this in the national press also meant that people across the country, even the Empire, could follow such cases. Miners in the South Wales coals fields were able to vicariously participate in such cases, as were sheep

[111] *Ibid*
[112] *Ibid,* 90
[113] K Hughes, 'Gender Roles in the 19th Century' *bl.uk* <https://www.bl.uk/romantics-and-victorians/articles/gender-roles-in-the-19th-century> accessed 8 Jan 2016
[114] *Punch*, 22 Sep 1849

farmers on the Yorkshire dales, tin miners in Cornwall and dockworkers on the Fife. While public attendance at particular trials shows that public curiosity was manifest, the depiction of cases in the mainstream press demonstrates the extent to this interest. As a result, the barrister was a key actor in this 'theatre' of crime.

Following on from the preceding discussion of the detailed and formal description of case reports, it was an important aspect of the newspaper press in this period to ensure that individual publications reported the news precisely and truthfully. To tie this to the current focus, *John Bull*[115] and *The Times*[116] reported the actions of counsel in *R v. Courvoisier*[117] in close detail, while also giving specific narrative styles to such reports. This case concerned the murder of a peer of the realm, Lord Russell, by his Swiss valet, Courvoisier, who was accused of slitting his throat as he slept. The case was a *cause célèbre* due to its subject matter; most simply, a valet murdering his very prominent master; and was widely reported by the national and international press of the time. Russell was a renowned peer from a well-respected family (his nephew was the future Prime Minister John Russell, 1st Earl Russell). This crime affronted Victorian sensibilities relating to class and subservience, and continued an on-going distrust and suspicion of immigrants. *John Bull* described Mr Charles Phillips, Courvoisier's defence counsel, beginning his court opening address in the following manner:

> Mr Phillips now rose to address the Jury. He commenced by stating that after so many years experience in a criminal court, he had never rose [sic] to address a jury with more anxiety than he did on the present occasion; that anxiety was still further increased by evidence

[115] *John Bull,* 21 Jun 1840 and *John Bull,* 22 Jun 1840
[116] *The Times,* 19 Jun 1840
[117] *R v. Courvoisier* [1840] 173 ER 869 (1688-1897)

> having been produced last night of which the prisoner was not aware….[118]

This manner of reporting draws upon narrative and literary styles, clearly attempting to build tension as he begins to address the court, yet it is verbatim in its style. The reader appreciated the manner of advocacy, and the factual and news-like reporting demonstrated the skill and ability of this barrister. The honesty expressed by Mr Phillips also signifies some sincerity and humility in his role, however, the development of the case ended up representing Mr Phillips in a very different light, which will be addressed shortly.

Another *cause célèbre* reported in-depth was *R v. Palmer*,[119] or the Case of the Rugeley Poisoner. This involved the prosecution, trial, and hanging of William Palmer, an English doctor found guilty of murdering his friend, John Cooke, by strychnine poison. He was also suspected of murdering a number of others, including his wife, his mother-in-law, his brother and even his own four children. This case was particularly controversial as it concerned a medical doctor; a man entrusted with preserving life rather than taking it. This again fed the narrative, sensationalised nature of press reporting. The development of the medical profession in the preceding century, combined with social concerns towards quackery, ensured that this was a sensational case, which provided an ample opportunity for the to illuminate the barristers involved.

Both *John Bull*[120] and *Lloyd's Weekly Newspaper*[121] reported this very controversial case in astonishing complexity when compared to modern law reporting in the press. They explain the notes from Mr Devonshire, the surgeon

[118] *John Bull*, 21 Jun 1840
[119] *R v. Palmer* (1856) 104 R. R. 845–849 (Case of the Rugeley Poisoner)
[120] *John Bull and Britannia*, 19 Apr 1856, 17 May 1856, 24 May 1856
[121] *Lloyd's Weekly Newspaper*, 18 May 1856, 25 May 1856, 1 Jun 1856

who conducted the post mortem, explore the theory of absorption of poison, and even outline how strychnine is manufactured.[122] Importantly, both *John Bull*[123] and *Lloyd's Weekly Newspaper* [124] described in detail the speeches, examinations, and cross-examinations by counsel. Although there is no real criticism of the counsel in the case, such detailed reporting does demonstrate the barrister examining and cross-examining in a proficient and skilful manner whilst adhering to the strict conventions of the court. They outline how the "eminent"[125] counsel, Mr Bodkin, delivers his opening address, with great solemnity[126] and continues to report many of the counsel and junior counsel speeches and examinations.

Newspaper reports also alerted the public to the complex forensic mysteries that confronted legal counsel, which demonstrated to the public counsels intellectual and professional abilities. The case of *R v. Bartlett and Dyson,*[127] or The Pimlico Mystery, concerned the murder of Thomas Edward Bartlett in 1886 and the subsequent trial of his accused murderers, Rev. G. Dyson and Mrs Adelaide Blanche Bartlett (the victim's young wife). This case possessed all the characterisation and narrative devices of a mystery story. The themes found in this case likely embody why the public took such an interest in these cases. This case concerned an older gentleman with a much younger, impressionable wife who was seemingly engaged in an illicit affair with her priest. The victim was found to have been poisoned by chloroform, a large amount of

[122] *Lloyd's Weekly Newspaper*, 8 Jun 1856
[123] *John Bull and Britannia*, 19 Apr 1856, 17 May 1856, 24 May 1856
[124] *Lloyd's Weekly Newspaper*, 18 May 1856
[125] *Ibid*
[126] *Ibid*
[127] *R v. Bartlett and Dyson* [1886] (The Pimlico Mystery)

which was found in his stomach. Yet, the poison had not burnt his throat or mouth and there was no evidence as to how it had been administered.

The press obviously seized upon this and made a colossal *cause célèbre* out of the case at trial. *The Pall Mall Gazette*,[128] *The Illustrated Police News*[129] and *Lloyd's Weekly Newspaper*[130] covered the case extensively and it was given a central position in all of their publications. Just like The Rugeley Poisoner Case, The Pimlico Mystery was referenced with a literary style title in the press, clearly emphasising the obsession with the narrative nature of the crime, the public interest in macabre mystery stories, and the representation of themes and motifs more commonly found in fictional cultural texts. Furthermore, it illustrates two similar, yet distinct cultural media, drawing upon the tropes and motifs of one and representing it in the other. It is clear that the mainstream press of the nineteenth century drew upon the tropes of fiction to represent these criminal cases by emphasising their narrative nature and drawing parallels with fictional cultural sources.

There are also extensive examples in which the press highlighted a barrister by name through this factual news-like manner of reporting. Even where there may be no substantial commentary on their skills, they at least refer to the counsel by name. All the cases discussed above, list the barrister by name. It can be argued that this facilitated how the public became familiar with those barristers who regularly featured in the criminal and civil courts. Some specific examples

[128] *Pall Mall Gazette,* 12 Apr 1886
[129] *The Illustrated Police News,* 17 Apr 1886
[130] *Lloyd's Weekly Newspaper*, 18 Apr 1886

can be seen in the case of *R v. Thistlewood and Others,*[131] the trial of The Cato Street Conspirators.

The Cato Street Conspiracy had been a covert attempt by a group of reformers to assassinate the British cabinet, including the Prime Minister, Lord Liverpool. They hoped to achieve Parliamentary reform through their extremist action and operated under the name of Spencean Philanthropists, in honour of the radical reformist Thomas Spence. They were arrested following an operation by the Bow Street Runners and were captured at their base of operations in Cato Street. This case was exceptionally controversial due to its divisive subject matter and the population was divided over the issues, including the need for Parliamentary reform and disenfranchisement of the electorate.

In the reports of the conspirator's trials, *The Times* gave the names of defence and prosecuting counsel,[132] as well as verbatim reports of the cases. In the case of *R v. Palmer,*[133] the Rugeley Poisoner Case, *John Bull*[134] and *Lloyd's Weekly Newspaper*[135] listed the names of prosecution and defence counsel. One member of the bar, who featured in this case as counsel for the prosecution, was Mr Edwin James QC. This thesis examines Mr Edwin James later in chapter five, in relation to discipline, but it is clear how those who consumed these reports became familiar with the individual names and identities of barristers through there appearances in high profile cases. This meant that the general, factual representation of the bar highlighted individual barristers by name and allowed

[131] *R v. Thistlewood and Others* [1820] (The Cato Street Conspirators)
[132] See *The Times,* 4 Mar 1820, 17 Apr 1820
[133] Case of the Rugeley Poisoner
[134] *John Bull and Britannia,* 31 May 1856
[135] *Lloyd's Weekly Newspaper*, 27 Apr 1856, 4 May 1856*,* 11 May 1856

the public to become familiar with them, as well as with the profession more generally.

At this point, it is worth acknowledging the qualitative differences within press reporting of the legal process over time. Specifically, this qualitative difference included the shift from standard factual reporting to a more substantial narrative constructive within the reporting of such cases. For example, the reporting of the Cato Street conspiracy in the 1820s demonstrates this factual, simplistic reporting of the case. *The Times* provides evidence of this

> Mr. Curwood rose to address the Jury for the prisoner. He commenced by an allusion to the difference which existed between the evidence adduced in this case as compared with that given in the case of Thistlewood.
> Lord Chief Justice Dallas interrupted the learning gentlemen, and stated that he could not suffer any allusion to evidence given on a former trial. The Jury could alone judge the evidence before them, and were bound to dismiss from their minds all that had been said with respect to Thistlewood…
> Mr Curwood expressed his intention to avoid again requiring the interposition of the court.[136]

Upon observation, it is clear how this is merely descriptive, factual representation of the facts occurring in the court. This is an example of how the press of the early nineteenth century was adjusting to court reporting for mainstream press publications and may also demonstrate that these publications were relying on barristers to report the cases to supplement their incomes. While this is very difficult to verify, as these reports were unaccredited, the legal quality of the case was recorded with precision and accuracy, with little narrative or artistic flourish, and suggests conventions recognisable to those versed in the law. It also shows the importance of the accuracy placed in these reports.

[136] *The Times,* 24 Apr 1820

However, by the 1890s reporting conventions had changed. Reporting of the legal process had a more narrative construction and appealed to the public's desires for more sensationalist style of publications, more akin to mystery stories that law reportage. This was a combination of influences. Initially, it may have be an influx of professional journalists, taking over reporting duties from the briefless barristers, but also the public appetite for more sensational stories and the inevitable development of the media as it developed to draw upon the inherent narratives within the law. This can be seen in the reporting of the Pimlico Mystery in the 1880s.

> On Friday the Trial of Adelaide Bartlett, charged with the murder of her husband, was resumed before Mr Justice Wills.
> Mrs Bartlett on taking her place in the dock looked brighter that she had hitherto appeared, and before seating herself she handed a note to her solicitor, Mr Woods, with a pleasant smile…
> There was a burst of applause at the conclusion of the speech of the learned counsel…
> Even before the foreman of the jury had completed his statement, loud and prolonged cheering was heard from the large concourse that had assembled in the Old Bailey. Directly, the verdict of "Acquittal" was returned, rapturous plaudits broke out in court, which were continue in defiance of the official efforts to subdue this unwanted demonstration of approval…
> On leaving in his carriage, Mr. E. Clarke was loudly cheered by a large number of persons remaining within the outer yard of Newgate and also by the crowd in the Old Bailey. The judge left shortly after in a four-wheeled cab.[137]

There is a marked different in the reporting of this case to the reporting of the trial of one of the Cato Street Conspirators. It is clear that the reporter is trying to contextualise the scene and adds this narrative flourishes in order to draw out the narrative within the case. This is just one example of the emergent narrative and qualitative changes to the press reporting of the legal process in the late

[137] *Lloyd's Weekly Newspaper,* 18 Apr 1886

nineteenth century. The difference is even more distinct in case reportage in the weekly news periodicals.. *The Pall Mall Gazette* reported

> There was a great crush at the Old Bailey this morning, as there always is indeed, when there is a murder trial on the calendar...
> The details of the case are by no means delicate, and yet alike on the floor of the court and in the gallery all the best seats were occupied by women…
> The Rev. George Dyson, the prisoner who stood accused of being an accessory to the wilful murder, was the first to be placed in the dock. He looked ill and anxious, bowed to his counsel, and then took up a position at the far end of the dock. Mrs. Bartlett was then placed by his side. The female prisoner is as like the photographs which have been sold in the streets as possible. She was wearing no hat or bonnet, and only dressed simply in black silk dress and gloves…
> There was no doubt that Rev. Dyson and the prisoner at the bar knew the contents of the will, nor did the evidence point to any quarrel between the prisoner and her husband…[138]

This contextualisation and inclusion of tantalising information about the case, beyond establishing her motive, demonstrate this narrative style. The qualitative characteristics of such cases meant that other tropes and leitmotifs more often associate with literature emerged through the press, most notably the rise of the hero or villainous barrister.

A principal argument within this chapter is that due to this continuous exposure and the changes to the style of reportage, a cult of celebrity began to emerge around specific barristers constructed and encouraged by their appearance in the press. The press reporting of trials was often accompanied by extended commentary and opinion on high-profile cases. This reoccurred over long periods causing a sensation in the press, building public interest in particular cases, and making barristers central figures to these ongoing sagas. For example, *The Pall Mall Gazette* often commentated on Edward Clarke's cases and the advocacy within them. His skills were so prized that it was advised that

[138] *Pall Mall Gazette,* 12 Apr 1886

"nobody will place himself or herself in suspicious circumstances without giving a previous retainer to Mr Clarke."[139] Again, this statement demonstrates an assumed familiarity with Edward Clarke. While he was a political figure, he These *causes célèbres* led to prolonged public engagement with scandal and crime, which often encouraged the public to attend court in order to witness first hand a trial they had followed in the press, and witness the advocates they had read about. Attending court would have reinforced what the press was representing, affirming their beliefs, opinions and images of the bar.

It was inevitable that a cult of celebrity emerged around famous barristers, and there were many individual barristers who became household names in England and Wales. This was often encouraged, even led, by their coverage in the press[140] due to its ability to lead and reflect popular opinion and form images of these individuals. Barristers singled out as celebrities' penetrated popular culture and the public consciousness with their noteworthy rhetoric and cogent, well-argued speeches. Celebrity barristers representing clients in the most high-profile cases featured heavily in the press and made the public aware of these famous advocates. Barristers such as Sir Edward Clarke[141], Baron Charles Russell[142], Sir Alexander Cockburn[143], Baron Coleridge[144] and, towards the end

[139] *Pall Mall Gazette,* 19 Apr 1886
[140] See *John Bull*, 13 Jun 1891
[141] MM Macnaghten, 'Clarke, Sir Edward George (1841–1931)', rev. HCG Matthew, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/32426> accessed 8 April 2014
[142] JC Mathew, 'Russell, Charles Arthur, Baron Russell of Killowen (1832–1900)', rev. S Agnew, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://www.oxforddnb.com.lib.exeter.ac.uk/view/article/24301> accessed 8 April 2014
[143] M Lobban, 'Cockburn, Sir AJE, twelfth baronet (1802–1880)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press Sept 2004) <http://www.oxforddnb.com.lib.exeter.ac.uk/view/article/5765> accessed 8 April 2014
[144] D Pugsley, 'Coleridge, John Duke, first Baron Coleridge (1820–1894)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://www.oxforddnb.com.lib.exeter.ac.uk/view/article/5886> accessed 8 April 2014

of the period, Sir Edward Marshall Hall,[145] were considered the most eminent professionals at the bar, and through their exploits in the courtroom became household names.

Sir Edward Clarke, for example, was portrayed as one of the finest forensic orators of the late Victorian period. Clarke was an "extraordinarily powerful"[146] presenter and a "magnificent"[147] speaker. His defence of Adelaide Bartlett[148] was described as being one of "the finest pieces of forensic oratory".[149] In regards to his closing argument for Gordon-Cumming,[150] the press said "no greater forensic triumph has been scored in our time".[151] Clarke[152] was celebrated for his rhetoric and his defence of William Gordon-Cumming was widely considered to be one of the landmark closing defence statement in the annals of legal procedure in the late nineteenth century. Depictions such as these arguably transmitted a positive public image of barristers, highlighting their distinguished professional skills as well as their dedication to their clients and, moreover, to justice.

Celebrity barristers and their fine displays of oratory provided some validation for barristers being the only profession referred to as learned.[153] The positive representation of barristers shaped an image of professionalism,

[145] C Biron, 'Hall, Sir Edward Marshall (1858–1927)', rev. M Clarke, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://www.oxforddnb.com.lib.exeter.ac.uk/view/article/33651> accessed 8 April 2014
[146] *Pall Mall Gazette,* 12 Jun 1891
[147] *John Bull*, 13 Jun 1891
[148] The Pimlico Mystery
[149] *John Bull*, 13 Jun 1891
[150] Royal Baccarat Scandal
[151] *Pall Mall Gazette,* 19 Apr 1886
[152] MM Macnaghten, 'Clarke, Sir Edward George (1841–1931)', rev. HCG Matthew, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/32426> accessed 8 April 2014
[153] See *The Times,* 19 Jun 1840, *Lloyd's Weekly Newspaper*, 18 Apr 1886 and *John Bull*, 21 Jan 1821

success, and values that the bar was keen to transmit in eventual codification of their rules.

Barristers such as Clarke[154] and Hall[155] were considered role models to young men studying at the bar and for junior barristers beginning their careers. They permeated into the social consciousness as experts in oration and forensic examination, substantiating the belief that barristers were the superior legal professionals. The profession of barrister was perceived by nineteenth century society as the principal branch of the legal profession, being more highly regarded than solicitors or attorneys. This was intensified by the press coverage that barristers received and the traditional nature of the bar's regulative, administrative and educational mechanisms embodied in the Inns of Court. The press coverage they received for their advocacy[156] reflected positively on barristers and their public image.

The cult of celebrity was also notable through the publication of these barristers' autobiographies, which shaped the public image of the profession. The public saw these publications as an additional medium through which they could indulge their interest in crime, punishment and the legal process through a more culturally mature means than press publications. These memoirs are also revealing about the true nature of their position as role models. This interest in the publication of legal memoirs,[157] compendia of cases[158] and the collected

[154] See generally, Sir E Clarke, *The Story of My Life,* (OHN Murray 1918)
[155] See generally, E Marjoribanks, *The Life of Sir Edward Marshall Hall,* (reprint. Victor Gollancz Ltd 1929)
[156] *Lloyd's Weekly Newspaper,* 18 Apr 1886 and *Pall Mall Gazette*, 9 Jun 1891
[157] See generally, Sir E Clarke, *The Story of My Life,* (OHN Murray 1918)*;* E Marjoribanks, *The Life of Sir Edward Marshall Hall,* (reprint. Victor Gollancz Ltd 1929)
[158] See generally, D Walker-Smith and E Clarke, *The Life and Famous Cases of Sir Edward Clarke,* (reprint, Eyre and Spottiswoode 1942), E Marjoribanks and J Mortimer, *Trials of Marshall Hall*, (reprint, Penguin 1989)

writings of individual barristers[159] suggests that barristers penetrated popular culture through the literary sphere as well as the press. There are also a number of portrayals of barristers in fictional literature[160] but the true-life memoirs, cases and speeches contribute to literature in a genre of non-fiction, and aided the developing genre of true crime. These publications came about as a result of their celebrity status in the press and their position within the social consciousness. It can be argued that the press effectively created a market for these publications.

These non-fiction publications polarised existing differences in public attitudes to the image of the bar. For example, Clarke's autobiographical memoir aimed to "interest lads whose early lives are spent as mine [his] was, in somewhat humble and difficult circumstances, and who may be encouraged by the story of my [his] happy and successful career".[161] Readers purchased this particular publication due to an existing fascination with Clarke's exploits.

However, it can be argued that the publication of such literature by barristers could have encouraged the contrasting view of barristers as vain and self-promoting. Regular and often highly public court appearances meant that successful barristers were, by necessity, confident public speakers and often possessed great presence. Some members of society may have interpreted this confidence and presence as vanity or arrogance. Barristers were aware of this public attitude; indeed, Clarke alludes to it in his introduction,[162] acknowledging the suggestion that only vanity would possess a man to leave a record of his life.

[159] See generally, E Clarke, *Sir Edward Clarke (Her Majesty's Solicitor General) Public Speeches 1880–1890,* (Routledge 1890)
[160] See Sydney Carton and Mr Stryver in C Dickens, *A Tale of Two Cities,* (reprint, OUP 2008), Serjeant Buzfuz in C Dickens, *Pickwick Papers,* (reprint, OUP 2008)
[161] Sir E Clarke, *The Story of My Life,* (OHN Murray 1918), 2
[162] *Ibid,* 1

Clarke is clearly keen to highlight his more noble motivation for writing his memoirs, and to dispel the idea that his publication represented a sense of vanity.[163] To those with a less than favourable impression of the legal profession, the publication of such memoirs encouraged the perception of barristers as vain and self-indulgent.

In juxtaposition to the positive representations of barristers considered above, many themes that exist in legal culture relate to barristers in their professional capacity as advocates and to the confrontational nature of their role in court. Themes of the barrister as a fomenter of conflict and as a predator were common in the press of the nineteenth century. It should be noted that the public's view of barristers was likely to be dependent on the nature of the interaction. For example, the prosecuting lawyer was likely to be perceived as particularly ferocious from a defendant's perspective. Periodicals on occasion represented barristers as wild beasts, such as wolves, bears[164] and crows.[165]

The representation of barristers as ferocious was an impression that had prevailed as a result of public exposure to fine and often damning pieces of oratory. This led to a view that barristers signified self-serving "guns for hire" rather than effective guardians of justice. The association made between advocacy and combat furthered this; advocacy was perceived as combat drawing on the adversarial tradition found in English law and illustrated the changes in adversarial procedure that occurred in the nineteenth century. This combat was often represented as noble or as a gentleman's sport. It was depicted as

[163] *Ibid,* 1
[164] *Punch,* vol. 35, 1858
[165] *Ibid,* vol. 25, 1853

fencing[166] or as pugilism,[167] with barristers occasionally "taking off the gloves"[168] for their clients. These associations with noble combat suggest that nineteenth century society was still adjusting to new conventions in adversarial procedure,[169] but saw the battle of words between barristers as a dignified and righteous combat rather than debased mud-slinging.

Not all barristers who obtained public and professional acclaim became famous and received celebrity status. There were occasions when a barrister's conduct was considered scandalous, such as Mr Charles Phillips' defence in *R v. Courvoisier*,[170] in which he imputed the guilt of the maid in the murder of Lord Russell whilst knowing the guilt of his client.[171] This represented the barrister as unethical, dishonest and as an agitator of trouble. As argued earlier, the public interest in the legal process was driven by their desire for justice and retribution. So, the notion of a barrister evading his responsibilities in this respect likely caused a strong negative public image of the barrister and thus reflected poorly on the profession.

Charles Phillips'[172] honour was called into question for his defence of the guilty Courvoisier[173] and *The Times* published many letters which described the irony of whether "a man [who] employs his talent to screen the guilty…can be considered honourable".[174] Other barristers also received notoriety in the press

[166] *Ibid*, vol. 36, 1859
[167] *Ibid,* vol. 35, 1858
[168] *John Bull,* 13 Jun 1891
[169] See generally, DJA Cairns, *Advocacy and the Making of the Adversarial Criminal Trial 1800–1865,* (OUP, 1998)
[170] *Courvoisier*
[171] See *John Bull*, 21 Jun 1840*, The Times,* 19 Jun 1840, 22 Jun 1840
[172] DJA Cairns, 'Phillips, Charles (1786/7?–1859)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004)
<http://www.oxforddnb.com/view/article/22147> accessed 8 April 2014
[173] *Courvoisier*
[174] *The Times*, 25 Jun 1840

for their unethical conduct. Stories such as the investigation and discipline of Fitzroy Kelly[175] for bribery and corruption during the Parliamentary elections for Ipswich in 1836[176] encouraged themes of the lawyer as avaricious. The charge, trial and sentence of the barrister Mr George Slone for the ill-treatment of one of his serving girls, intensified themes of the lawyer as unethical and dishonest.[177]

Barristers were also criticised in the press for their scandalous practices in and out of the courtroom. Charles Rann Kennedy[178] had engaged in a sexual relationship with his client, Mrs Swinfen, during her case[179] and entered into a contingency fee arrangement for representing his client. This was against legal etiquette and the press coverage of such cases propagated motifs of the lawyer as financially motivated and betraying their own professional ethical codes. Edward Kenealy[180] was disbarred for his aggressive actions and words directed at the bench during the trial of the Tichborne claimant.[181] Scandals such as this encouraged a self-serving image of barristers and themes that were prevalent in legal culture in the eighteenth century.[182] Such malpractice encouraged negative opinions of the bar and these scandals reaffirmed those stereotypes found in

[175] CJW Allen, 'Kelly, Sir Fitzroy Edward (1796–1880)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://www.oxforddnb.com/view/article/15295> accessed 8 April 2014
[176] See R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 15
[177] *John Bull*, 14 December 1850
[178] WAJ Archbold, 'Kennedy, Charles Rann (1808–1867)', rev. E. Metcalfe, *Oxford Dictionary of National Biography,* (online edn, Oxford University Press 2004) <http://www.oxforddnb.com/index/101015364/Charles-Kennedy> accessed 8 April 2014
[179] See WW Pue, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review* 135–174
[180] JA Hamilton, 'Kenealy, Edward Vaughan Hyde (1819–1880)' rev. R McWilliam, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://www.oxforddnb.com/view/article/15356> accessed 8 April 2014
[181] Perjury of the Tichborne Claimant. The story concerns Roger Tichborne, disappointed in love who is then lost at sea, and a man who, more than a decade later, appears from the Australian outback claiming to be the missing heir. The civil and criminal trials which followed held the record as the longest court case in British legal history until the mid 1990s <http://www3.hants.gov.uk/community-history/-claimant.htm> accessed 8 April 2014
[182] See generally, M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)

satirical publications and popular culture,[183] discussed below. The idea of the barrister as an unethical fomenter of strife[184] or as morally deficient[185] were themes that were familiar to nineteenth century society, due to their appearance in the satirical press of the period and transmitted negative characteristics of the profession when shaping the public image.

Sensationalist news stories that appeared in the press in reference to these scandals contributed to the distrust that some members of society felt towards the bar. Barrister Mr Charles Phillips[186] is one such example and his immoral defence of Courvoisier encouraged themes of the barrister as unethical. Some within the profession[187] also considered Phillips's defence as unethical and voiced their concerns in the press,[188] questioning his ethics, demonstrating how he had contravened the professional ethical code.[189] This illustrates how Phillips was criticised by a number of fellow barristers, as well as by society through the press, and demonstrates how barristers upheld their own unwritten code of conduct and professional etiquette using the press. Furthermore, it highlights how barristers interacted with the press to protect their own interests and convey their opinion on current legal matters.

Conversely, barristers also defended their professional colleagues, and this transmitted to the public an image of unity, goodwill and solidarity within the

[183] See WS Gilbert and A Sullivan, *Trial By Jury,* 'When I Good Friends was Called to the Bar'; *HMS Pinafore,* 'When I was a Lad'
[184] M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005) 31 and 114
[185] *Ibid,* 179
[186] DJA Cairns, 'Phillips, Charles (1786/7?–1859)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004)
<http://www.oxforddnb.com/view/article/22147> accessed 8 April 2014
[187] *The Times*, 25 Jun 1840
[188] *The Age,* 5 Jul 1840, 28 Jun 1840; *The Age and Argus*, 28 Sep 1844; *Lloyd's Weekly Newspaper,* 13 May 1855
[189] *Ibid*

profession. It also demonstrated the collegiality of the bar and confirmed the professional nature of the barrister's vocation. Barristers had an underlying ethos of respect and courtesy to fellow members of their profession, and this was exemplified when a barrister defended another against undue criticism, such as when Samuel Warren[190] defended Phillips,[191] nine years after the Courvoisier[192] case. Warren was a highly regarded figure in legal circles, both as a barrister and as an author of legal textbooks, and was widely recognised by the public as a popular novelist and literary writer.[193] A high profile and widely recognised figure who defended a fellow member of his profession made an impact upon the social consciousness, as his name alone was identifiable by the public.

The presence of criticism of individual barristers by other members of their profession[194] conveyed to the public two notions. The first was the issue of malpractice. These prolonged discussions drew the public's attention to the specific malpractice by some members of the bar. Such cases of misconduct did not improve the reputation of barristers and exacerbated anti-lawyer sentiments and negative stereotypes found in legal culture.[195] However, this also identified as scandalous those cases that were against the standard of practice of the bar. This was highlighted by the condemnation of their peers. If any barrister's conduct[196] could be so unethical or dishonourable that he incurred the

[190] CRB Dunlop, 'Warren, Samuel (1807–1877)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004)
<http://www.oxforddnb.com/view/article/28792> accessed 8 April 2014
[191] *The Times,* 20 Nov 1849
[192] *Courvoisier*
[193] This is another example of barristers featuring in the public sphere as both a barrister and a writer, contributing to the legal culture of the bar by transmitting reflections of the bar through popular culture
[194] *The Times,* 25 Jun 1840
[195] See generally, M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)
[196] For example, Phillips's Courvoisier Defence in *The Times,* 25 Jun 1840 and Dr Kenealy in *Lloyd's Weekly Newspaper*, 25 Apr 1880

disapproval, outward disaffection, and even malice of his fellow barristers, it emphasised how uncommon and unusual such immoral occurrences were.

Second, it demonstrated the bar as ready to criticise and even punish[197] those who did not abide by their rules. It affirmed that barristers had to abide by often strict, albeit unwritten regulation or they would face punishment. This demonstrated to the public that barristers were willing to regulate themselves and were competent in disciplining other barristers who broke the bar's unwritten regulations.[198]

It is therefore clear that reports in the press of scandals featuring barristers evoked a number of opinions in the public cognisance. They aggravated stereotypes of historical and satirical anti-lawyer sentiment,[199] whilst also showing the bars condemnation of the dishonour brought on the profession. The condemnation of barristers by their fellow professionals transmitted a mixed message. It reassured the public through the disciplinary actions such barristers faced by the benchers of their respective Inns and indicated that barristers were effectively regulating themselves against malpractice. Whilst it also demonstrated the bar as self-critical, it did not convey messages of solidarity and collegiality amongst these learned brothers. These wider themes of regulation and discipline as represented in press will be examined in more depth in chapter five of this thesis.

[197] *The Times,* 18 May 1874
[198] Ibid
[199] See generally, M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)

The Barrister in the Satirical Press of the Nineteenth Century

The satirical press presented a very different style of reporting to crass, and crude caricatures and flysheets of the eighteenth century. This body of the press was formed of comic periodicals typically containing "jokes, comic verse, riddles, parodies, caricatures, puns, cartoons and satire".[200] They were often regarded as weekly-illustrated supplements to the daily papers.[201] Many satirical periodicals, such as *Punch*, *Fun,* and *Judy*, aimed to entertain and were intended to be without malice.[202] However, some radical satirical periodicals, such as *The Age* and *The Satirist,* were more severe in their satire and criticism and continued the often crude and vulgar Georgian tradition of literary and visual satire.[203] Whilst these satirical periodicals were not representative of the genre, they must be considered when analysing the public image of barristers during the nineteenth century.

The satirical press in nineteenth century England was, by it's very nature, the biggest critic of the changing political climate and of contemporary current affairs. The changes indicative of the industrial revolution created a market for comical weekly periodicals, in addition to a household's traditional morning papers. These satirical comic periodicals were quick to highlight the shortcomings of religion, to explore and criticise new scientific advances and to illuminate the inadequacies of established institutions. For example, *Punch* often humoured

[200] J Don Vann, 'Comic Periodicals' in J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 278
[201] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) xix
[202] *Ibid,* 10
[203] See generally, D Donald, *The Age of Caricature: Satirical Prints in the Reign of George III,* (YUP 1996)*;* T Hunt, *Defining John Bull: Political Caricature and National Identity in Late Georgian England,* (Ashgate 2003)

Irish Catholics[204] whilst satirising Darwin's sensationalist theory of evolution.[205] Science and medicine were also used as a metaphor to comment on the shortcomings of political institutions.[206] The bar was amongst such institutions[207] that came under their scrutiny.

Two factors need to be acknowledged when examining the impact of satirical publications and their depiction of barristers in relation to their public image. First, the number of readers is indicative of the size of the audience that was exposed to these ideas. Secondly, and perhaps more importantly, it needs to be considered whether the public saw what they read in the satirical press as mere humour or representative of the truth.

The readership of satirical periodicals in the nineteenth century can be gauged by recorded figures or the publication's life span. *Punch* was by far the most successful satirical periodical and had an established maximum readership of 50,000–60,000 readers weekly[208] running from 1841–1992 (uninterrupted). Its competitor *Fun* had a more modest readership of approximately 20,000[209] and was published from 1861 to 1901. Another of *Punch's* competitors, the aptly named *Judy,* ran from 1867 to 1907 but its readership figures are not available.[210] Since it was relatively equally matched to its Liberal competitor, *Fun,* it may be assumed that *Judy* had a similar circulation figure. The extensive time span over

[204] *Punch* (1841), vol 10 125
[205] *Punch's Almanack* for 1871 (1871), 8
[206] *Punch* (1860) vol 50, 221
[207] For definition see Stanford Encyclopaedia of Psychology, "Social Institutions", <http://plato.stanford.edu/entries/social-institutions/> accessed 10 April 2014
[208] *Punch* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*
[209] *Fun* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*
[210] *Judy*, no mention of circulation in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*

which these periodicals were published shows that the public were receptive to such satirical periodicals and that they were popular amongst their readers.

This popularity is evident when compared to the highest selling daily of the first half of the nineteenth century, *The Times,* which had a daily circulation of 10,000 copies in 1832 and a weekly circulation of around 60,000.[211] It can be argued that satirical publications were aimed at the well-educated middle and professional classes, and it was these persons who had the most contact with, or the most need for, the legal services of barristers. The transmission of ideas in reference to barristers likely had an increased importance to this class, as it was their opinion that affected access to justice and the efficiency of the delivery of legal services in nineteenth century England. This included the maintenance of the supremacy of traditional models of the legal process in order to prevent their possible engagement with alternative, novel modes of legal service, such as tribunals and arbitration.

The impact of the message delivered by the satirical press depended largely on its motivation. The satirical press sought to entertain and amuse rather than to inform like the mainstream press. The satirical periodicals had a centralised political ideology. *Punch*, for example, was considered the weekly-illustrated comic supplement to *The Times,*[212] and the other satirical periodicals were centralised with gentle leanings towards the Liberal or Conservative.[213] These periodicals targeted political ideology indiscriminately as satire of all politics and current affairs was vital to their continued publication. Therefore, at

[211] A King and J Plunkett, *Victorian Print Media: A Reader,* (OUP 2005) 339
[212] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) xix
[213] For example, *Fun* (Liberal) and *Judy* (Conservative) in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*

times when an individual publication's political ideology was congruent to that of the political party in power, it would have been necessary to satirise both parties. For example, *Fun* was a Liberal publication; during the Liberal administration of Lord Palmerston, *Fun* were more than happy to ridicule his age and long-winded oratory[214] and even went as far as criticising his Liberal ideology. It described him as a "Conservative in heart but Liberal in promise".[215]

These periodicals ridiculed politics, contemporary current affairs and established institutions to entertain their readers. This was what their readers expected and supports the proposition that these periodicals had very few political or ideological aims and that their sole purpose was to entertain their readership rather than make any major contribution to contemporary issues. For example, *Punch*'s primary goal "was to ridicule political parties when they had digressed to the sycophancy of a degraded constituency".[216] *Punch* intended no malice but simply aspired to highlight political hypocrisy through ridicule.

Furthermore, *Punch's* founding staff was comprised partly of barristers[217] who were likely to have a strong grasp of the 'in-jokes' or 'affectionate humour' that would appeal to their readership. The public viewed the satirical periodicals as comic publications and saw the jokes and anti-lawyer sentiment as tongue-in-cheek humour rather than as an attack on the bar and its professional capabilities. This is embodied in *Punch's* underlying ethos, humour "without one

[214] *Fun,* 21 Jun 1862
[215] *Fun,* 23 Aug 1862
[216] J Don Vann, 'Comic Periodicals' in J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 282
[217] For example, Gilbert Abbott á Beckett was a barrister and went on to write the *Comic Blackstone,* (Bradbury 1864)

atom of malice."[218] This suggests that their jokes and criticism of the bar was intended to be affectionate rather than malevolent. Therefore, the public likely viewed the depiction of barristers in the satirical press as distorting reality and did not fully believe it. This is a different influence than the mainstream press had on the public.

The established market for satirical publications reflected the appreciation of humour and entertainment that was embodied by the British public. As Don Vann stated, "the British public was rabid for comic literature. To do the British public justice, it was always willing to be amused and liberal to its buffoons."[219] This undermines the contrasting point that the Victorian public were "earnest worshippers of propriety, as represented in the 'we-are-not-amused' anecdote".[220] This love of humour and entertainment was represented by the far-reaching success of some magazines, most notably, *Punch, Fun,* and *Judy.*

The close relation between the satirical periodicals and the mainstream papers influenced how the public saw the satirical press as the purveyors of truth or fallacy. If anti-lawyer sentiment had been consistent in both the mainstream and the satirical press, it would likely have influenced the public more profoundly. However, themes and stereotypes found in satirical publications were often inconsistent with those presented by the mainstream press. As a result, these differences may have served to affirm the role of the satirical press as purveyors of comedy and satire.

[218] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) 10
[219] J Don Vann, 'Comic Periodicals' in J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 279
[220] *Ibid,* 290

The more extreme radical satirical press, akin to the pamphlets of the seventeenth and eighteenth centuries, was far more scathing in its criticism than the satirical press. Many radical satirical periodicals were born out of the desire to attack and vilify a particular political agenda or public individual. For example, *The Age* was "a Tory paper and ready to libel anyone with Liberal leanings"[221] and *The Satirist* was "a Whig publication eagerly defaming Tories".[222] These radical satirical periodicals were humorous, but their jokes and commentary were far more severe and scathing than their non-radical satirical counter-parts. Unlike the satirical publication *Punch,* radical publications did not appeal to a diverse audience but to a small, select group of people. Their primary goal was to undermine credibility by viciously attacking political opponents of their own ideological agenda. However, political libel and political aggression were not their only intentions; the bar and other instruments of state were scrutinised and found wanting.

The radical satirical press had a low circulation. For example, *The Age* had a maximum readership of between 8,000 and 10,000[223] and *The Satirist* of only 4,000 to 5,000.[224] Such low circulation figures present two ideas. The first is that radical satirical periodicals were neither popular nor representative of the main ideas of society. The condemnation and disdain directed at these papers by other members of the professional press suggest that contemporary publishers and editors held them in low esteem.[225] However, they still had the ability to reflect

[221] *Ibid,* 278–279
[222] *Ibid*, 279
[223] *The Age* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*
[224] *The Satirist* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*
[225] J Don Vann, 'Comic Periodicals' in J Don Vann and RT VanArsdel, *Victorian Periodicals and Victorian Society,* (reprint, University of Toronto Press 1995) 278

attitudes held by some members of society and create new opinions in those interested by radicalism.

Secondly, the fact that these periodicals did support a readership, albeit a small one, suggests that a peripheral group of individuals existed who may have been sympathetic to the extremist political views and libellous content contained within them. The role of radical satirical publications, unlike the satirical press, was not to entertain but to inform, albeit with a lack of objectivity. Readers were motivated to buy the periodical for this reason, and therefore the audience was likely to embody the ideas expressed by the publication. They were akin to propaganda and designed to reinforce and reflect ideas already held by their audience. Since these publications maintained a level of influence over their readership it was more likely that they were guided by the opinions expressed in reference to other areas of society. This suggests that those members of society who held such radical beliefs perceived the views presented by the radical papers, in reference to barristers, as accurate. Those individuals who followed the mainstream press saw the views expressed by these publications as extravagant, sensational and exaggerated. Whilst the readership of such periodicals was low, that small number of readers may have believed the ideas transmitted by them. The anti-lawyer sentiment transmitted via this medium constructed a negative public image of the bar in the minds of the radical press's limited readership.

Unlike the popular satirical press, the radical press never penetrated popular culture in the same way due to their embodiment of political extremism and their vicious libellous nature. Therefore, their contemporaries viewed them

with disdain and condemnation.[226] The satirical press in the nineteenth century does provide an interesting vantage point from which to observe the continuous nature of this negative view of legal culture and to explore the themes and stereotypes that existed through the eighteenth century. The satirical press did highlight the stereotypes found in this negative representation of legal culture but it did not inform the public, it reinforced themes and stereotypes that already existed in popular culture and capitalised on these to entertain their readers.

The satirical press represented institutions as being fraught with inefficiency and hypocrisy; many were depicted as being out-dated and unable to cope with the changes brought about by industrialisation and increased urbanisation.[227] The bar was an institution that had existed and developed over many centuries and it provided an enduring target for criticism. The satirical press was quick to seize upon the shortcomings of the bar and highlight its administrative, educational and regulatory problems.

The bar itself stimulated the "barrage of satire"[228] that barristers faced through its unchanged nature and reliance on tradition. *The Satirist* criticised the "swingeing fees" [229] that numerous eminent counsel (including Phillips and Bodkin) received for repeating their arguments, and accuses the bar's undertaking of cross examinations as "bullying." [230] In turn, *The Age* also condemned the "morality of the bar"[231] and, like other aspects of the press, represented the bar as hypocritical in their practise.[232] They even describe

[226] *Ibid*
[227] *The Age,* 8 June 1840
[228] P Corfield, *Power and the Professions in Britain 1750–1850,* (Routledge 1995) 42
[229] *The Satirist,* 2 Aug 1840
[230] *Ibid*
[231] *The Age,* 28 June 1840
[232] *Ibid*

Charles Phillips' actions as "profanation of talent" and as "a prostitution of the noblest gifts of oratory to the most debased of motives."[233] It is clear that even this satirical magazine acknowledged the skill required for advocacy, but it also represented that abuses of this skill were detrimental to the image of the bar. It also represented the bar as hypocritical and affirmed stereotypes of the bar that had existed in satirical works in the seventeenth and eighteenth century.[234]

The system of self-regulation that governed the profession, combined with its archaic customs and its distinctive manner of dress, made barristers easy targets for these satirical publications. *The Age* flatly criticised the bars system of etiquette, by outlining the hypocrisy of his practice as "acting at once as prosecutor, witness, attorney and counsel,"[235] but highlights the final failing that led to his regulation, advertising himself. This illustrated the oft-perceived bizarre rules of etiquette that governed the profession; rules that were widely condemned in the press later in the period.[236] This was because this internal system of regulation stood at odds with the emerging trend in central intervention and state regulation.[237] The bar, with its gowns and wigs, also came to symbolise the law in illustrations and cartoons.[238] Across the illustrated satirical press, the wig and the gown became the symbol of the law, much in the same way that the gavel has

[233] *Ibid*
[234] *Ibid* and see earlier discussion of seventeenth century caricatures including W Hogarth, '*Marriage a-la-mode',* thenationalgallery.org.uk, <http://www.nationalgallery.org.uk/paintings/william-hogarth-marriage-a-la-mode-1-the-marriage-settlement> Mr Silvertongue, the Barrister, accessed 29 May 2014
[235] *The Age,* 28 September 1844
[236] See the later discussion on regulation and the disbarring of Edwin James QC in chapter five
[237] See O MacDonagh, 'The Nineteenth century Revolution in Government: A Reappraisal' (1958) 1(1) *The Historical Journal* 52; HW Parris, 'The Nineteenth century Revolution in Government: A Reappraisal Reappraised,' (1960) 3(1) *Historical Journal* 17*;* JB Brebner, 'Laissez Faire and State Intervention in Nineteenth century Britain' (1948) 8 *Journal of Economic History Supplement* 59 and PWJ Bartrip, 'State Intervention in Mid-Nineteenth century Britain: Fact or Fiction?' (1983) 23(1) *The Journal of British Studies* 63
[238] *Punch*, 13 Nov 1875

become the symbol of American law.[239] The bar's system of unwritten etiquette,[240] its traditional nature, and its custom of self-regulation were criticised by satirical periodicals, especially in an age that sought to reform, improve and legislate on many areas of society.

The satirical press also seized upon stereotypes and themes[241] that had been recurrent in legal culture for generations, and were quick to use these anti-lawyer stereotypes in their satire. Themes and negative stereotypes existed in cultural texts within the preceding centuries, and the satirical press drew upon these existent public beliefs to intensify anti-lawyer sentiment. Barristers were often depicted feeding snakes,[242] or as anthropomorphised creatures such as scorpions,[243] crocodiles[244] or wolves.[245] Barristers were also represented as ferocious in argument[246] and their professional characteristics, such as rhetoric, were ridiculed.[247]

The negative images of barristers continued anti-lawyer themes, such as the barrister as an economic predator,[248] as playmates of the devil,[249] and as morally deficient.[250] These themes featured heavily in the satirical press[251] of the nineteenth century and intensified the anti-lawyer humour that was already

[239] This visualisation of law using motifs of the barrister will be discussed in the following chapter.
[240] *Punch*, 6 Sept 1845
[241] For examples of themes, see M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005)
[242] *Punch* (1864) vol. 47, 207
[243] *Punch* (1856) vol. 30, 119
[244] *Punch* (1858) vol. 35, 249
[245] *Ibid*
[246] *Punch* (1845) vol. 8, 96
[247] *Punch* (1845) vol. 9, 238
[248] M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005) 64
[249] *Ibid,* 97
[250] *Ibid,* 179
[251] For example, economic predator in *Punch*, 22 Nov 1845*,* playmates of the devil in *Punch*, 19 Nov 1864 and the morally deficient barrister in *Punch*, 24 Jan 1863

prevalent in legal and popular culture.[252] It has been demonstrated earlier in this chapter that the mainstream press of the period was also perpetuating a nuanced representation of the bar, and the role of satirical press as a companion to the mainstream press[253] exemplifies more comprehensively how the whole press of the period was representing the bar to the public.

The constant transmission of negative representations of barristers and the diffusion of anti-lawyer sentiments made the public aware of the negative portrayal of the legal profession that had existed in the eighteenth century. They brought legal humour and anti-lawyer sentiment into the sphere of nineteenth century popular culture, making it easier for those who had negative experiences with barristers to associate and attach these distrustful stereotypes to the profession.

The morality of the barrister's profession[254] and the conduct of barristers[255] were criticised in the radical satirical press. For example, following his scandalous defence in the Courvoisier case,[256] Charles Phillips[257] was criticised for his defence of his actions in the press.[258] The defence of Phillips by himself and others also incited the radical satirical press to refer to the criminal bar as "an unlucky lumping title".[259] The radical satirical press were also keen to highlight the perceived skewed morality of barristers and were quick to highlight the

[252] Gilbert and Sullivan, *Trial by Jury*
[253] "Punch served as a weekly comic supplement to The Times", in RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) xix
[254] *The Age*, 05 Jul 1840, 28 Jun 1840
[255] *The Satirist; or, the Censor of the Times,* 02 Aug 1840
[256] *Courvoisier*
[257] DJA Cairns, 'Phillips, Charles (1786/7?–1859)', *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004)
<http://www.oxforddnb.com/view/article/22147> accessed 8 April 2014
[258] *The Age and Argus*, 28 Sept 1844
[259] *Ibid*

absurdities they saw in the principle of neutral partisanship. *The Age* was unashamedly blunt in its assessment of the bar's morals and the profession's willingness to represent somebody with opposing politics and feelings to their own.[260]

These criticisms were sterner and more pointed, but still echoed sentiments that appeared in other evaluations of barristers and their morals. Condemnation such as this had a similar subject matter to the themes of anti-lawyer sentiment commonly found in other publications. However, these periodicals were set apart from their contemporaries by this frank, hard-line criticism. Adverse depictions of barristers combined with negative commentary on court events and legal process in these periodicals, did not improve the public image of barristers, nor did it portray the profession accurately.

Therefore, it can be argued that the public in nineteenth century England were aware of negative stereotypes and themes of anti-lawyer humour but did not invest in them significantly. Lawyers had long been the targets of satirical abuse and although the public was familiar with anti-lawyer sentiment it was viewed as traditional, enduring humour. The fundamental principle in assessing the depiction of the bar and its transmission to the public mind through the satirical press, is that it rarely campaigned for change or reform. Their readers sought to be entertained. They were purchased or subscribed to in the same way that the mainstream press was. The mainstream press, such as newspapers, news periodicals, and professional periodicals were a source of information to the nineteenth century public. The satirical press merely provided entertainment and

[260] *The Age*, 25 Apr 1830

a chance to laugh at familiar areas of society, especially the established state institutions.

The satirical press may have exploited existing sentiments, but it guided the public image of barristers to a lesser extent than the mainstream press, which was intended to inform rather than entertain. There is also a more substantial emphasis placed on satire and the satirical press in the nineteenth century due to the influence of barristers in the mainstream press. The satirical press provided a counterbalance to this influence and this has ensured that there is a greater importance placed upon satirical fiction in contemporary culture.

Summary and Reflections

This chapter has looked at the representation of the bar in the print press of the nineteenth century. It has specifically looked at how the law and the barrister were popularised in the press, drawing upon the historical context outlined in chapter one. Following this, the representation of the barrister in the mainstream press and the satirical press, within the publications and cases outlined in the methodology of this work, were examined and presented.

Law and barristers were both popularised in the press of the nineteenth century for a variety of reasons and motivations. However, it is the proliferation of the barrister in the press of the period that is most relevant for the construction of the public image outlined in the aim of this thesis. For a public image to be represented through the press, there must have been sufficient representation of the profession within cultural texts for the public to engage with.

The representations of the bar that were projected in the press are incredibly nuanced. They range from a number of factual and functional

representations of barristers undertaking their professional roles. This consistent image of the barrister undertaking their work with vigour and behaving as an efficient and purposeful professional, signified the barrister as an intelligent, diligent and effectual advocate. Taking this further, individual barristers were exalted for their professional success and emerged as celebrities. Conversely, those that engaged in malpractice or questionable ethical conduct became notorious villains.

This villainy was perpetuated in the satirical press who sought to, at best, stereotype and humour the profession and at worst, to defame and highlight what it saw as deep hypocrisies in its legal practice. These satirical publications were probably less persuasive than the mainstream press in reflecting or, more importantly, leading public opinion. This was because they were regarded as humorous or radical to the vast proportion of the population. But to those who read and engaged with them, they may have been a powerful source in perpetuating anti-lawyer stereotypes.

A principal reflection from this chapter is the differing roles of the mainstream and satirical press in constructing public opinion. The mainstream press can be seen as a source of information to the nineteenth century public and would have been viewed more seriously, whereas the satirical press was designed to offer amusement and an opportunity to joke at the expense of institutions, organisations and professions. However, what is important for the thesis aim is that as cultural texts, they all have the ability to reflect and lead public opinion. Even humorous or offensive textual descriptions of barristers, had the ability to shape public beliefs in anti-lawyer stereotypes and warp the public image of the bar.

Finally but no less importantly, the popularisation of the bar in the press of the period ensured that the barrister was directly placed within a far-reaching and powerful cultural text. As far as constructing a popular public image went, this was one of professionalism and efficiency in legal practice, punctuated with celebrated heroes and unethical villains.

Chapter 3

The Visual Representation of the Barrister in the Print Press of the Nineteenth Century

Introduction

The aim of this chapter is to examine the manner in which the illustrated press of the nineteenth century depicted the bar through its pictorial representation of legal affairs. It examines the characteristics and popularity of pictorial journalism, and analyses how the visual press popularised the bar. More specifically, this chapter determines how barristers were portrayed in the press and explores the nature of the public image transmitted through these illustrated sources. It also contributes to the wider aim of this thesis by exploring how the representation of the bar in the printed press, specifically the visual representation of the profession, contributed to the construction of a public image of the profession and further developed widespread societal perceptions of the barrister during the Victorian epoch.

The Evolution of the Illustrated Press and the Popularisation of the Visual Image in the Press of the Nineteenth Century

This section will demonstrate how the press of the period established a substantial visual cultural medium that can be recognised as truly popular. It also explains how the rapid development of the press led to the popularisation of the visual image in the press of the period and subsequently, the Victorian bar. This section also demonstrates how this growth in the visual depiction of the barrister established the legal professional as a principal character in the 'popular culture' of the press and goes further to explore how the barrister became a visual metaphor for the Common Law in the public consciousness of the nineteenth century.

As explored in the introduction to this thesis and in the preceding chapter, the growth of the press is intrinsically linked to the extensive developments that are characteristic of the industrial revolution. This is also true for the growth of the visual press and the proliferation of the pictorial image in the press of the period.

English society has a long history of engagement with visual cultural texts, especially as a consequence of the low rates of literacy outlined previously. The inclusion of illustrations in all manner of printed materials, including the production of caricatures in the early modern period,[1] and the popular reception of pictorial satires and sequential art, meant that as a process of progression, illustrations were included in the press of the Victorian age. It can be argued that the public of the nineteenth century had a desire for the visual depiction of culture and society, and a need of pictorial representations in popular cultural texts. While literacy increased during the nineteenth century, it was visual images that the mass public had experience in reading, and as the technology developed, it was inevitable for these to be regularly included in the press.

Technological developments and innovations in printing allowed visual images to be produced more quickly and with greater ease.[2] During the late eighteenth and early nineteenth centuries, there was rejuvenation in printing techniques that supported the simplicity and mass-production of printed text and images. One such industrial revival for pictorial printing was the movement back to using engraved wooden blocks and then hard, iron handpress panels that were far more resilient than the fragile glass plates that had been used in the mid-

[1] See generally, D Donald, *The Age of Caricature: Satirical Prints in the Reign of George III,* (YUP 1996)
[2] P Mainardi, *Another World: Nineteenth Century Illustrated Print Culture,* (YUP 2017) 73

eighteenth century.[3] This meant that many more copies of one image could be run off one set of plates. This allowed greater flexibility in mass publication of images and, for smaller papers and periodicals, the reduction in the costs of self-publication.[4] Those who could afford the equipment and rent a space could easily market publications, which led to the development of niche papers and small-scale publications.[5] This revival in printing techniques combined with widespread mechanisation of the period led to the extensive automation of printing. This encouraged the mass-production of the press and of the visual image in the press.[6]

The popularisation of the visual image in the newspaper press of the nineteenth century was an obvious progression in the manufacturing and development of this cultural medium. It is evident in other spheres of nineteenth century society, namely manufacturing and industry, that the technological advancements and innovations in engineering indicative of the industrial revolution were adapted for use in other areas of life. The industrial revolution was a period of considerable technological development, and the success of England in establishing itself as a globalised super-power was partly encouraged by the entrepreneurship and ingenuity of technologists, industrialists and manufacturers.

The press naturally evolved in the same way. The printing techniques mentioned earlier were expanded and developed for use in mainstream mass publications. The micro printing techniques of the eighteenth century were

[3] See generally, R-G Rummonds, *Nineteenth century Printing Practices and the Iron Handpress,* (Oak Knoll Press 2004)
[4] P Mainardi, *Another World: Nineteenth Century Illustrated Print Culture,* (YUP 2017) 73
[5] R Crone, *Violent Victorians,* (Manchester University Press 2012) loc.2073 (eBook)
[6] P Mainardi, *Another World: Nineteenth Century Illustrated Print Culture,* (YUP 2017) 74

adopted by national and regional newspapers, redeveloped for mass printing and the evolution of this technology allowed illustrations and pictorial representations to be included in widespread press resources.[7] It was also a natural evolution that, as this technology was adopted, printers and print houses incorporated such innovations in their printing in order to appeal to market demand. The widespread growth in press resources created a competitive market for publications and individual editors had to adapt and develop new attractions to appeal to potential purchasers. This was found through illustrated news. Illustrated papers were established to compete with the text-only publications and they provided a rich outlet for news, allowing the reader to examine and appreciate current events, political proceedings and the legal process, through both written and visual media.

As the press culture of the nineteenth century continued to develop and become more substantial, the widespread desire for press sources (newspapers, magazines and periodical publications) inevitably increased. The public appetite for more elaborate and in-depth reporting encouraged newspaper and periodical publishers to include illustrations and sketches in their publications. The most famous specialist illustrated newspaper was *The Illustrated Police News. The Illustrated Police News* had a peak readership of 600,000 with an average weekly readership of 150,000 to 200,000.[8] However, this is based on sales and, as mentioned earlier, it was common for newspapers to be shared amongst families, in pubs, in reading rooms, and amongst friends to name but a few alternative readership channels. This paper fed the public desire for illustrated crime stories

[7] *Ibid*
[8] *The Illustrated Police News* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*

and was famed for its graphic depictions of gory crimes and macabre murders on its cover. *The Illustrated Police News* clearly demonstrates the union of the public desire for pictorial journalism and detailed reporting of crime and the legal process. This paper was considered, in some respects, a debased publication due to its graphic nature, but it still maintained a distinct popularity amongst the public of the nineteenth century.[9]

The most famous illustrated weekly periodical was *Punch.* This publication was a direct contrast to *The Illustrated Police News* and was described by contemporary commentators as being "the best in wit and virtue",[10] made by "a scholar and a gentleman,"[11] and has generally been considered by society as a great British institution.[12] It is clear to see that the movement towards illustrated journalism created a new market out of the desire for better reporting and illustrated news. The period in question predated the widespread use of photography, but it was these innovations in reporting that arguably established press conventions for illustrated reporting, and normalised the public expectation for photographic journalism that still prevails in all press cultures today.[13]

The widespread inclusion of visual images in the press of the period begun to emerge in the 1840s, particularly in the illustrated weeklies such as *Punch* and the smaller periodical press. While certain mainstream publications begun to include visual images from the 1840s, such as *The Illustrated London News,* it was between the 1870s and 1890s that illustrations became central in a number

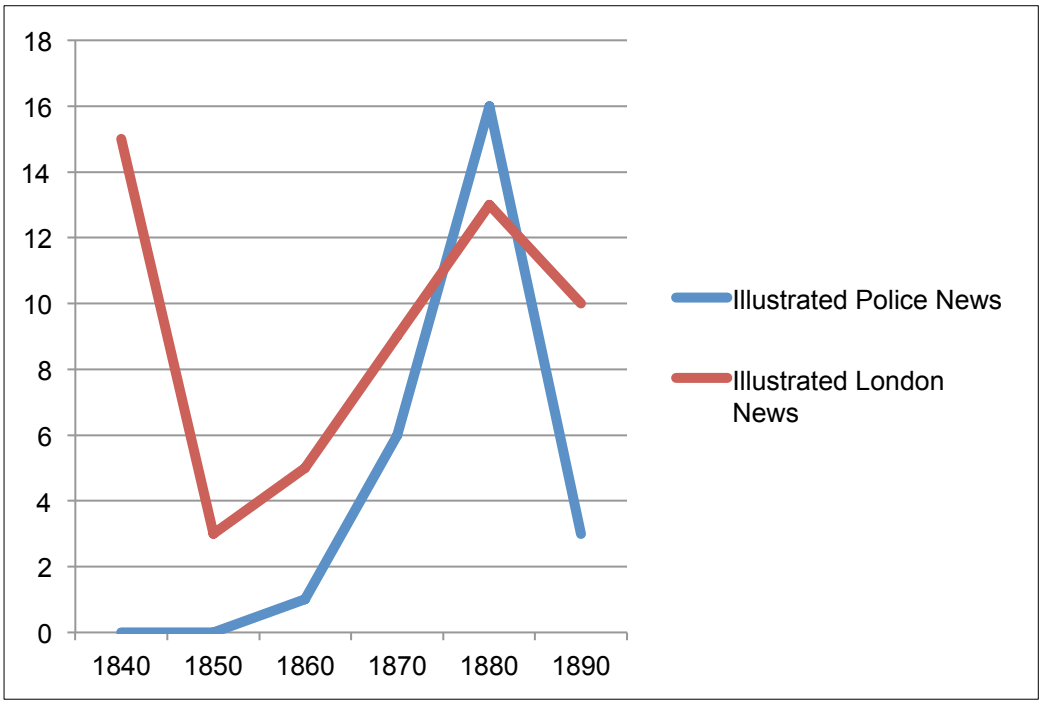
[9] *The Illustrated Police News* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900*
[10] M Spielman, *The History of Punch,* (Cassell 1895) 27
[11] *Ibid*
[12] See generally, RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997)
[13] See generally, J Hill and V Schwartz (eds), *Getting the Picture: The Visual Culture of the News,* (Bloomsbury 2015)

of weekly mainstream publications, such as *Lloyd's Weekly Newspaper,* and specific illustrated publications, such as *The Illustrated Police News* and *The Illustrated Penny Paper.* This thesis has drawn images from these respective time periods, and has drawn subject matter from the cases and individuals outlined in the methodology of this work. This work has also drawn on further material from notable *cause célèbres* in this period, particularly the cases of Charles Peace and Florence Maybrick. This work has also included images from criminal and civil cases, particularly focusing on individuals discovered in the examination of celebrity and notorious barristers in chapter 2. Nevertheless, it was inevitable that the barrister featured most heavily in the reporting of crime and criminal cases due to the widespread, cross-class public demand for criminal reporting in the mainstream and specialist press.

The barrister featured in the visual press substantially in the period. While it is difficult to give a precise figure on individual appearances of the barrister in the whole press of the nineteenth century, an image of the barrister appears over 150 times in *The Illustrated Police News* and *The Illustrated London News* between 1850 and 1900. Appearances of the barrister in these publications peak towards the end of the period particularly the 1880s. The reason for this is that as the newspaper medium developed during the period, images became more common but their coverage begun to diversify towards the turn of the century.. This was particularly true for the *Illustrated Police News.* When founded, they were purely focused on crime and law stories but by then end of the period they included columns or pages on sport and other common interests. *The Illustrated London News* also developed more diverse coverage, representing news and images from across the Empire and the world. These publications also included

more visual advertising space towards the end of the period, signalling the growing engagement by their readerships with the visual culture of the later nineteenth century.

Table 1 - *Visual Representation of the Barrister in The Illustrated Police News and The Illustrated London News*



The press of the Victorian age became the first texts that conveyed to the mass public a visual culture of news, social affairs, politics, and most importantly for this thesis, crime and the legal process, and this is still evident today. Visual culture represents the reliance on the visual in cultural sources, the merging of popular and low culture in news media, and the study of the image within this cultural paradigm. Visual culture is concerned with visual events in which the consumer, in an interface with visual technology, seeks information, meaning and pleasure. Visual technology "means any form of apparatus designed either to be looked at or to enhance natural vision, from oil painting to television and the

Internet".[14] The emergence of visual culture has been recognised in the last 50 years and has been perceived as having increased in the last 15 years, due to the technological advancements in information technology, specifically the Internet, mobile Internet, digital advertising and the continued growth in the 24-hour news culture. However, the press, literary and visual arts of the nineteenth century perpetuated the visual culture of the press that can be viewed as truly significant in its mass characteristics. The proliferation of illustrated news sources and pictorial periodicals, combined with a growth in illustrated literary sources and visual advertising during the period established this far-reaching visual culture in the press during the nineteenth century.

The definition of visual culture is also regarded as encompassing the study of the image in culture, involving a broad definition of popular culture. The study of visual culture is the way in which we can read images to analyse "what the image means and how that meaning is communicated". [15] Therefore, the definition of the visual image is not merely the visualisation of an object but also the meanings it intends to transmit. The visual image must be read in a similar way to how textual sources are read. However, this is not solely a subject that studies the image. The discipline has developed with the use of various approaches to investigate how these numerous media can reflect culture. This study of visual culture encompasses critical theory as well as cultural, sociological, anthropological and artistic approaches to understanding the world through image. Visual culture is a discipline that attempts to "produce meanings,

[14] N Mirzoeff (ed), *An Introduction to Visual Culture,* (Routledge 1999) 3
[15] R Howells and J Negreiros, *Visual Culture*, (2nd edn, Polity Press 2012) 1

establishing and maintaining aesthetic values, gender stereotypes and power relations within culture".[16]

This visual culture was not just limited to the press; there was also a vast increase in the illustration of fictional works. The works of Charles Dickens and Anthony Trollope were often released in a dual format. These works were obviously published in the form of a complete novel, but also in bi-weekly or monthly periodical releases. Many of their works were published with illustrations to appeal to their periodical readers, and this subsequently became a feature of novel publication also. Charles Dickens and his illustrator, Hablot Knight Browne (known as Phiz), worked together through much of Dickens's career, ensuring that each part of his works was published with accompanying illustrations. These mass produced visual cultural texts continued a strong tradition of the visual as a means of augmenting textual or oral narratives.

Furthermore, this growth in visual culture during the nineteenth century saw the coalescing of textual and visual images in the press. Some newspapers, periodicals, and novels merged textual description with illustrated images, and enabled the reader to construct the image of subject matter through more specific representations found in the visual image. The image brought the public closer to the people, places and important events that were featured in the press.

The visual image became a medium through which to document social change, and a means to expose the suffering and wrongdoing upon the lower orders. The visual image "represented a new way of seeing the world."[17] The

[16] I Rogoff, 'Studying Visual Culture' in N Mirzoeff (ed), *The Visual Culture Reader*, (2nd edn, Routledge 2002) 24
[17] R Howells and J Negreiros, *Visual Culture*, (2nd edn, Polity Press 2012) 190

visual image found in the press of the period also existed on a theoretical and methodological boundary, not being recognised as fine art, nor being recognised as a photograph or accurate representation. While the visual images in the press were hand drawn, they were more akin to photography as they attempted to draw the reader into a "unique relationship" [18] between the image and the represented subject. It encouraged a more sacred relationship with reality, which persuaded people that when they looked at an image in the press, they were looking at reality itself.[19]

It can be argued that these images were not to be viewed as aesthetic creations, but windows upon reality, through which the reader could engage more substantially with the subject. That is not to say that these images were a full, true and accurate record of the particular event as with photography, but it provided a more honest and valid representation of individual issues and events than could be conveyed via textual representation. The visual image in the press also took the reader to a higher plain of understanding and acted as a more precise signifier of the barrister in society through these cultural texts.

That is not to say that images in the mainstream press of the nineteenth century were free of artistic convention or imagination, but they existed as more accurate representations of the events being portrayed based upon experiential engagement with the event at hand or first-hand journalistic accounts. They sought to provide a true representation of the event and persons in question, in order to augment the textual representation of the subject matter. The accuracy of these images will be explored later in this chapter. However, this was different

[18] *Ibid*
[19] *Ibid*

to the satirical press. Images in the satirical press drew upon certain artistic conventions, techniques and imagination, using techniques such as metaphor, allegory and anthropomorphism to draw allusion with the common cultural language of the people. These satirical illustrations were read in different ways to these mainstream images, drawing upon common language, iconography and literary or cultural tropes and devices. The process of reading the image shall now be explored and individual devices and context drawn out from the analysis of the image in the remainder of the chapter.

The proliferation of the image in the press of the nineteenth century also encouraged within society methods through which to read an image. There is an interconnection between vocabulary and language, but there is also a 'language' of the image that must be read in a similar way and alongside the accompanying text.[20] This concept of visual literacy had developed throughout society in tandem with the advancement of visual sources of culture; but this was encouraged further in the nineteenth century, stimulated by the growth in visual sources.

As pictorial images became more common throughout society, visual literacy developed beyond a single level of skill to a more constructivist appreciation of the image. The first level of visual literacy is the audience using their own knowledge to decode the image. A greater level of visual literacy comes from the ability to comprehend the context in which the image is being presented, and the aptitude to critique the representation of the subject matter.[21] Even during this growth of visual culture, the interconnection between the text and image allowed the public to read the image at this initial skill level. Specifically,

[20] BE Maidment, *Reading Popular Prints 179-1870,* (2nd ed, MUP 2001) 28
[21] M Thibault and D Walbert, 'Reading Images: An Introduction to Visual Literacy' *learnnc.org* <http://www.learnnc.org/lp/pages/675> accessed 28 Oct 2014

the visual image was included as a method to illustrate the most important characters or issues in a particular case and contribute further to the public's knowledge of the case. The visual illustrations, even at their most base level, constructed a more substantial public image of the barrister through the public exposure to these images alongside the textual representation of the bar.

The proliferation of the visual during the period makes the image an important source of historical investigation in contemporary scholarship. There is an ever-increasing reliance on non-traditional sources in historical scholarship, contributing to a wider, and often more profound approach to the study of cultural history. The incorporation of non-traditional sources in research has sought to challenge the traditionalist paradigm.[22] Barber and Peniston-Bird have been keen advocates of using various non-traditional sources[23] in historical research and have established how visual sources have rarely been "read"[24] in historical research and merely used as illustrations.[25] Historical and legal research has always had a dependency on textual sources, often due to issues with accessibility and the practicality of using such sources. Traditional manuscript sources and written archival texts have also been used extensively and, although they will never become redundant, scholars are consistently seeking out new sources, new source types, and new methods for historical research.

The introduction to this work discussed the methodological challenges posed by the sources used in this thesis[26] that are indicative of the challenges

[22] WW Pue and D Sugarman, 'Introduction' in WW Pue and D Sugarman (eds), *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003) 7
[23] See generally, S Barber and CM Peniston-Bird, (ed) *History Beyond the Text: A Students Guide to Approaching Alternative Sources,* (Routledge 2009)
[24] *Ibid,* 1
[25] *Ibid,* 1–2
[26] See Introduction - Methodology

currently facing historical research in the digital age. Consequently, the image has been used with care in historical research. A seminal work on the subject is *History and its Images*[27] by Francis Haskell. In this work, Haskell outlines the problems with the interpretation of these sources and studies how early sixteenth- and seventeenth-century antiquarians interpreted images, sometimes incorrectly or inaccurately. He also states that antiquarians began the work that would later branch into the cultural history discipline. Haskell believes that images can provide us with a means to study cultural history not only by analysing the subject of the painting but also the context of its production. It should be noted that Haskell's work deals predominantly with fine art, a source indicative of early studies in cultural history. Haskell also questions the validity of the content of the images, which can be disputed since the artistic licence that was given to the creators must affect the final product.

Artists and illustrators can elaborate and fictionalise paintings, and photographers can alter or stage photographs, leading to problems of reliability and validity.[28] Thus, rather than being a valid and reliable account, the image should tell us more about how the author views the subject and the contextual public opinion. The visual as a whole should tell us as much about the creator and the public context in which it was produced, as the subject of the piece itself.

Barber and Peniston-Bird also raise issues surrounding the concept of progressivism. [29] They define progressivism as a process whereby the transmission of ideas remains constant, or continuously borrows from previous

[27] See generally, F Haskell, *History and its Images: Art and the Interpretation of the Past,* (Yale UP 1993)
[28] *Ibid*, 131
[29] S Barber and CM Peniston-Bird, (ed) *History Beyond the Text: A Students Guide to Approaching Alternative Sources,* (Routledge 2009) 8

expressions.[30] This is especially true for this thesis, which is reliant upon individual illustrators who worked within genre traditions or within a tradition of satire, for example, anti-lawyer sentiments.[31] This can present problems, as the historian must discover what is personal to the creator and what is specific to the tradition,[32] but it can still be argued as reflective of public opinion. Such sources can truly demonstrate how themes of anti-lawyer sentiment and negative stereotypes of the lawyer have been propagated by the consistently adapting cultural medium of the press.

The visual source is also important to the discipline of law and culture,[33] and the understanding of the law and the lawyer in popular culture.[34] Much attention has been paid to the opinion of lawyers and their public reputations,[35] yet little attention has been paid to the substantial history of the lawyer as a cultural figure and even less attention has been paid to the history of the lawyer as a subject of the visual. The concentration of academic scholars upon the proliferation of the lawyer in visual and popular culture in the post-Internet age[36] has arguably led to a disregard of the study of the lawyer in historical visual sources. While Musson has undertaken valuable work on the visual culture of the

[30] *Ibid*
[31] *Ibid*
[32] *Ibid*
[33] See generally, WW Pue and D Sugarman, 'Introduction' in WW Pue and D Sugarman (eds), *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)
[34] See generally, RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002)*;* MDA Freeman, *Law and Popular Culture,* (OUP 2005); M Asimow and S Mader, *Law and Popular Culture: A Course Book,* (Peter Lang 2007)
[35] For example, D Bedlow, 'From Zero to Hero'*, lawgazette.co.uk,* <http://www.lawgazette.co.uk/2064.article> accessed 8 April 2014; J Metcalfe, 'Do You Think the Solicitor's Profession is Well-Respected?' *juniorlawyers.thelawsociety.org.uk*, <http://juniorlawyers.lawsociety.org.uk/node/920> accessed 8 April 2014
[36] See generally, RK Sherwin, *When Law Goes Pop,* (University of Chicago Press 2002) and M Asimow, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533

law and the lawyer in the medieval period,[37] the scholarship of the barrister in the seventeenth, eighteenth and the nineteenth centuries, specifically Cocks,[38] Duman,[39] and Lemmings,[40] fail to consider the image of the lawyer, for example Lemmings[41] only uses images for illustrative purposes. Furthermore, a number of seminal works by Prest[42] do not analyse or examine any images of the barrister, or the lawyer more generally. Understandings of the profession and its public image are imperative in the continuing study of the law, lawyers and their relationship with popular culture.[43] An understanding of the visual representation of the barrister in the nineteenth century in the most ubiquitous cultural source is of vital importance to the historiography of the profession because it has been predominantly overlooked as a source of analysis.

It is argued in this chapter that these visual images were an influential source in constructing the public image of the barrister in the nineteenth century. This was because the visual culture of the nineteenth century allowed a wide proportion of the population to visualise institutions, places, and individuals. This also placed institutions such as the law and legal process, and individuals such

[37] A. Musson, 'Visual Sources: Mirror of Justice or 'Through a Glass Darkly'?' in A. Musson and C Stebbings (eds), *Making Legal History: Approaches and Methodologies,* (CUP 2012) 264 and A Musson, 'Seeing Justice: The Visual Culture of Law and Lawyers' in A Speer and G Guldentops (eds) (2014) 38 (Das Gesetz) *Miscellanea Mediaevalia,* 51

[38] See generally, R Cocks, *Foundations of the Modern Bar,* (Sweet and Maxwell 1983)

[39] See generally, D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983)

[40] See generally, D Lemmings, *Gentlemen and Barristers: The Inns of Court and the English Bar 1680–1730,* (Clarendon Press, 1990)

[41] See generally, D Lemmings, *Professors of the Law. Barristers and English Legal Culture in the Eighteenth Century,* (OUP 2000)

[42] See generally, WR Prest, *The Inns of Court under Elizabeth I and the Early Stuarts: 1590–1640,* (Longman 1972); WR Prest, *The Rise of the Barristers: A Social History of the English Bar 1590–1640,* (OUP 1986) and WR Prest, 'Lawyers' in R O'Day (ed), *The Professions in Early Modern England* (Longman 2000)

[43] See generally, WW Pue and D Sugarman (eds), *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)

as barristers, at the heart of this visual culture, encouraging public engagement with popular culture.

It was discussed in the preceding chapter how the press of the nineteenth century encouraged a cult of celebrity around barristers, creating individual legal heroes and infamous practising villains. The visualisation of trial reporting and legal process eternised this cult of celebrity and encouraged a more substantial engagement with these individual legal professionals. The public were now able to further understand, through illustrations, conventions of the court and the customs of the profession, for example, the wigs and gowns worn by all advocates in court, and barristers standing at the bar to deliver their orations. It also allowed the public to become familiar with individual lawyers and their images. The visual image also created a more lasting impression on the public consciousness than just a textual representation of the barrister.[44]

The visual representation of the barrister through illustrations also allowed the press, most significantly the satirical press, to depict the barrister using visual metaphors, pictorial motifs and themes that could not be conveyed or would be difficult to convey through words. This included drawing analogies between barrister and animals, especially using the literary device of anthropomorphism. Anthropomorphism was a popular literary and visual device during the Victorian period and the early twentieth century. While it was not unique to this period, it underwent a revival. Notable examples are Lewis Carroll's *Adventures of Alice in Wonderland*[45] (with the original illustrations by Sir John Tenniel), and later

[44] D Domke, D Perlmutter and M Spratt, 'The Prime of our Times?: An Examination of the 'Power' of Visual Images' (2002) 3(2) *Journalism* 131, 157
[45] L Carroll, *Alice's Adventures in Wonderland,* (reprint, Penguin 1996)

Kenneth Grahame in the *Wind in the Willows.*[46] This also demonstrates the clear crossover between literary themes and illustrated news in the press of the nineteenth century.

Literature and law were, and still are, inextricably linked due to the law's inherently narrative nature, and the visualisation of law during the period encouraged a closer relationship across these cultural sources. With the development of illustrated news reporting and pictorial journalism, the press illustrators intrinsically drew upon methods, techniques and conventions more commonly found in literature and literary illustration to represent institutions, social spheres, and individuals.

This continued and sustained exposure to the visual image in press illustrations also provided the public opportunity to draw upon anti-lawyer sentiments already embedded by the coverage of legal heroes and villains in the mainstream press, to construct a visual, as well as textual, public image in the social consciousness. The emphasis placed on legal reporting in the textual and illustrated presses, positioned the law and lawyers at the heart of the expanding visual culture of the period.

However, this chapter does not propose that the representations contained within its discussion was unique to the press, nor does it contend that such motifs were novel within this time period. Instead, it is argued that it was during the nineteenth century that these individual themes, motifs and messages were broadcast to a much broader audience and in much more ubiquitous numbers through the press than in the preceding time periods. This thesis has already

[46] K Grahame, *Wind in the Willows*, (reprint, Puffin 1994)

explored the representation of law and lawyers in cultural texts prior to the Victorian era and evaluated the popular characteristics of the law in the preceding periods; this thesis will now demonstrate that the visual sources transmitted to the public during this period serve to enrich current scholarship on law's visual culture and contribute to the history of the profession in the nineteenth century.

The Representation of the Barrister in the Nineteenth Century Illustrated Press

This section will examine how the press of the period represented the bar through visual images. It will also progress towards achieving the overall aim of this thesis by examining the representation of the barrister in specific illustrated press publications. It will contribute to the originality of the thesis by undertaking a survey of the popular depiction of the barrister in the popular culture of the press during the period.

The Barrister in the Mainstream Illustrated Press of the Nineteenth Century

In the mainstream press of the nineteenth century, the representation of the barrister was largely factual and represented individual barristers undertaking their professional in-court activities. The focus of many of these reports were the defendant and the facts of the case, and the illustrations concentrated on depicting prisoners in the dock, witnesses on the stand, and the judge on the bench, often passing sentence. Barristers very often appeared undertaking their duties in court within these illustrations. For example, illustrations in the press of the period focused on the defendant or witnesses giving evidence, and very often these individuals were represented as being examined by a barrister.

Illustration 1 - *The Trial; Mrs Dyson cross-examined, The Illustrated Police News,* 15 Feb 1879[47]

Illustration 1 depicts this by demonstrating a witness, Mrs Dyson, being cross-examined in court. The prisoner is visible in the background (wearing glasses and a prisoner's uniform bearing the Broad Arrow, a symbol of crown property) and the judge, raised up on the bench, to the right of the image. The witness being cross-examined, as indicated by the inscription (the caption below the image), and the composition of the image ensures that the witness and judge are balanced against the prisoner within the frame.

Composition can also tell us about how the artist has decided to draw the reader's attention to different characters in differing degrees due to their position in the image. This is called salience.[48] It is clear from this image that that the principal figures in the illustration are the Judge, Mrs Dyson, and the prisoner, Mr

[47] (c) The British Library, *The Illustrated Police News,* 15 Feb 1879
[48] G Kress and T Van Leeuwen, *Reading Images: The Grammar of Visual Design,* (Routledge 1996) 182

Charles Peace. Charles Peace is given the central position in the image emphasising his importance to the reader within the narrative of the case, but Kress and Van Leeuwen would argue that it is the bar that is highly salient due to their position in the foreground of the image.[49] As this is a cross-examination, the barrister would be fundamental to this process and the emergent narrative of the image and it's accompanying text.

It can be argued that the barrister is a principal subject of this image. The legal counsel are represented in the foreground of this illustration, and one barrister is displayed as gesturing to the witness box, clearly engaging in his cross-examination of Mrs Dyson. The other barristers are depicted listening intently and one even stroking his beard in reflection. Sources such as this illustration allowed the public to engage with the courtroom setting in a visual way and endorsed somewhat the view of 'learned counsel'. It allowed the public to visualise the courtroom setting and encouraged a wider engagement with legal processes and the roles that individuals played within it.

The presence or absence of framing devices can signify connections or separations between characters in an image, and these associations or juxtapositions can work together to create messages and meaning.[50] Within this image a line could be drawn between the principal legal officers in the image (specifically, the judge and the cross-examining barrister) and Charles Peace and Mrs Dyson. This can denote a number of intended messages. The connection drawn between Charles Peace and Mrs Dyson may acknowledge Peace's supposed infatuation with Mrs Dyson, or even of their rumoured affair. The

[49] *Ibid,* 184
[50] P Smith and C Lefley, *Rethinking Photography: Histories, Theories and Education,* (Routledge 2015) 181

connection between judge and barrister may suggest collaboration in the administration of the law as officers of the court. It could be argued that this is echoed in the juxtaposition between the public and the legal officers. This juxtaposition may signify the inherent conflict within the courtroom and the adversarial nature of the criminal trial.

Individuals within the court are also represented using particular visual cues affirming and evolving a recognisable legal iconography[51] for all roles within the courtroom. This was part of the constantly changing language of the image that was further developed and popularised during the nineteenth century. For example, the defendant is clearly depicted wearing a prisoner's uniform with very distinctive markings, the broad arrow.

The broad arrow was introduced for transported convicts in the 1830s[52] and in British Prisons in the 1870s[53]. This arrow has been used to mark government property since the Royal butler included this on his coat of arms in 1330.[54] Ash has argued that this symbol denoted that the uniform was property of the government and, by extension, so was the prisoner's body. This was particularly true for those accused and sentenced for capital crimes. This provides a vivid image through which the public could identify the type of case being heard and was a powerful signifier, representing the role of the prisoner in society in the visual culture of Victorian England. It also provided a particular sign, which made the prisoner and the type of case the barrister was involved in

[51] A Musson, 'Seeing Justice: The Visual Culture of Law and Lawyers' in A Speer and G Guldentops (eds), (2014) 38 (Das Gesetz) *Miscellanea Mediaevalia,* 54
[52] J Ash, *Dress Behind Bars: Prison Clothing as Criminality,* (IB Tauris 2010) 22
[53] *Ibid*, 55
[54] *Ibid*, 23

instantly recognisable in cultural texts of the late nineteenth century, something that endured in popular culture well into the twentieth century.

This is even more notable as Armley Gaol, where Peace was held, was trialling the use of the broad arrow uniform for convicts in the late 1870s. While the broad arrow had been used on transported convicts, the use in domestic prisons was introduced as part of Sir Edmund Du Cane's sweeping reforms to the convict prison system following his elevation to Chairman of the Board of Directors of Convict Prisons in 1869. While there would have been some recognition of the broad arrow being associated with convicts, it would not have been a recognisable symbol for domestic convicts in the public mind at this point. This is evidence of the popular press constructing a recognisable sign, or modifying the visual signifiers of convicts to make them recognisable in the visual culture of the nineteenth century and, as a result, enduring well into the twentieth century. It can be argued that this is an early representation of a domestic convict being represented wearing the broad arrow uniform, and can demonstrate the importance of the press in constructing the iconography of particular groups during the period.

The same can be said for the barrister's wig and robes. Much like the century preceding it, these were an important part of court dress and professional etiquette during the period, and eventually came to symbolise the law itself within legal iconography. The public were exposed to the image of the barrister undertaking his professional advocacy and dressed in his traditional dress, which led to two impressions being transmitted to the public and the social consciousness. The first impression was that of the bar as an institution with distinct customs, traditions and behaviours. This may have intensified the

mystery that often surrounded the bar as a profession, but it did represent the bar as adhering to these customs and traditions. Second, it encouraged a direct association between the bar, its manner of dress and the law. Much like the broad arrow as a signifier of the prisoner, the wig and gown acted as signifier of the barrister, but also as a visual metaphor for the law itself during this period. This will be returned to later and further evidence will be provided to support this.

It can also be argued that this image also represented the bar in a professional and proficient manner, demonstrating a respect and high regard for professional practice. All the barristers are represented as listening intently to the cross-examining barrister; conveying a distinct public image of studious and considerate barristers undertaking their professional obligations with great care and thoughtfulness.

Furthermore, these barristers are depicted facing away or side-on from the reader but still in the foreground of the image. It can be argued that this demonstrates how these images were intended to provide a ‘window’ into the courtroom, by placing the reader in the position of the passive observer. It was discussed earlier how the role of the press and their reporting of legal cases allowed those interested and those who could not attend the trial a medium through which to engage with legal proceedings. These pictorial representations of the court were a visual medium through which the public could observe the trial, and the barristers were positioned in such a way to allow the reader to adopt the point of view of the public gallery or even as the jury. When these illustrations were accompanied by the textual, verbatim report of the cross-examination, they provided the reader with a distinct experience of the trial.

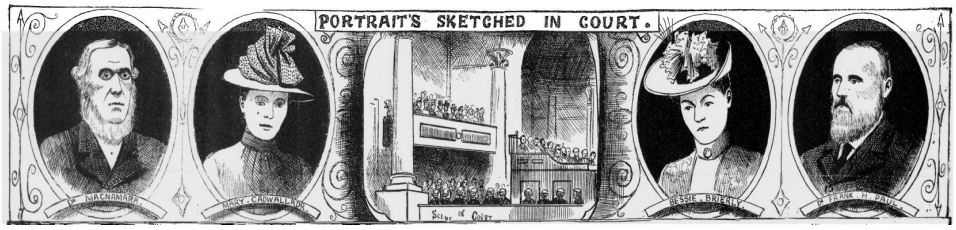
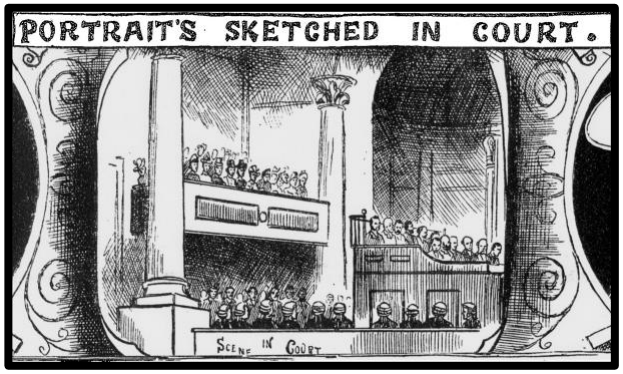


Illustration 2 - *Portraits Sketched in Court, The Illustrated Police News,* 17 Aug 1889[55]



Detail view of Illustration 2

The barrister also featured in more general pictorial reporting of the courtroom in the nineteenth century press. Illustration 2 is a pictorial header to a trial report that illustrated the key characters in the case, namely the plaintiffs and the defendants, and the barristers are also depicted in the central image. The barristers, in their gowns and wigs, are clearly visible in the foreground of the central image, emphasising their central role in the judicial system and the court process.

The decision to include these barristers in this image may demonstrate that the press of the period viewed barristers as fundamental to the legal process. This transmitted an image of necessity and importance to their readers, whilst also ensuring that the public understood the individual positions certain legal professionals took in the court. It appealed to the Victorian public's voyeuristic interest in court procedure and allowed them to visualise the courtroom. This

[55] (c) The British Library, *The Illustrated Police News,* 17 Aug 1889

visualisation put the narrative of the trial into the public consciousness, and therefore interest in the trial was piqued by this novel medium.

Much like illustration 1, this image also places the reader behind the barristers in the position of a passive observer and as a 'window' into the courtroom. It can also be argued that this demonstrates how these images were intended to be representative depictions of the trial, rather than fanciful sketches or images with particular aesthetic value. That is not to say that these images do not include some 'artistic licence,' but it was the artists intention to convey a truthful representation of the court and the participants within. These images are not dramatic representations, and bear some similarities to the courtroom sketches in modern culture. The perspective given to the reader, over the shoulder of the barristers, suggests this 'window' into the courtroom rather than a dramatic construction of the image. This is also suggested by its placement next to faithful representations of the key individuals in the case

However, it can also be argued that this image also contains some subtle criticism of the profession. The barristers are seated in a row, demonstrating the proliferation of these legal professional in the courts. The detail view of Illustration 2 depicts ten barristers seated in court and exemplifies the substantial nature of representation in the nineteenth century legal process. It was common in the legal process for a barrister to be assisted by juniors, and to a society that was adjusting to new conventions in legal process[56] this was seen as excessive. This was particularly significant where there were numerous individual claimants and

[56] See generally, DJA Cairns, *Advocacy and the Making of the Adversarial Criminal Trial 1800–1865,* (OUP 1998)

defendants involved in the case. The press of the period is clearly highlighting the proliferation of legal professionals in the court and subtly criticising their numbers.

When this is compared to illustration 1 and the discussion in chapter two, surrounding the factual representation of the bar, it is noteworthy that both illustrators have depicted the barristers facing away from the reader. While it can be acknowledged that the creators of these images deem the barristers to be highly salient (due to their positioning in the foreground), they are all positioned facing away or side on to the vantage point of the reader. It can be argued that this echoes the textual representation of the bar in the press, as being important legal actors but in a factual and functional manner.

Furthermore, it could be suggested that the depiction of these faceless barristers in illustration 1 and 2 helped to perpetuate existing mystery around the bar, dehumanise them as individuals, distance them from the public, and even perpetuate fear of them as characters. By depicting all the barristers in these illustrations facing away from the viewer or in profile, this perpetuates a mystery around these important legal figures. By making the majority of these individuals faceless also dehumanises them into a profession rather than people and distances them further from the public. Finally, a common literary and visual tope is the unknown or faceless horror This can create uncertainty for the reader and can make this group seem more threatening in the public mind. The ability of the unknown horror in the shadows was a common trope in late Victorian literature and print culture.[57]

[57] P Morey, 'Gothic and Supernatural: Allegories at Work and Play in Kipling's Indian Fiction' in R Robbins and J Wolfreys (eds), *Victorian Gothic: Literary and Cultural Manifestations in the Nineteenth Century,* (Palgrave 2000), 215

Additionally, this image depicts a pertinent characteristic of public engagement with the legal process in the nineteenth century. The public galleries in the court are illustrated as being full to capacity with members of the public watching the case. This demonstrates that the creator of the image recognised the social engagement with the legal process. The illustrator also arranges the court like a theatre, with banks of seating, which encouraged viewers to engage with law in the same way they might engage with their other favourite pastimes. The association between law and theatre, and the subsequent representation of the courtroom as a theatre, created a powerful signifier for the role of the court in society and for public engagement with procedure.

Finally, the grandeur of the court's architecture is also represented through this image. The courtroom is depicted with neoclassical pillars and high galleries for seating; the image depicted is more akin to a theatre than a contemporary courtroom. While this is representative of the architectural style of some nineteenth century courtrooms, the scale of the courtroom portrayed is not representative of courtrooms during this period. The scale of this courtroom far outstrips even the size of the central criminal court in the late nineteenth century. A representation such as this furthered the idea of the courtroom as a place of performance, and even a place of entertainment. This is particularly true for this image as it was presented in the *Illustrate Police News,* a paper famed for using crime and court procedure as a source of entertainment. The depiction of the courtroom in this neoclassical style of the courtroom evoked the inherent tradition

and formality of the law. Neoclassical and gothic revival architecture acted as signifiers for the history and tradition embodied within the legal system.[58]

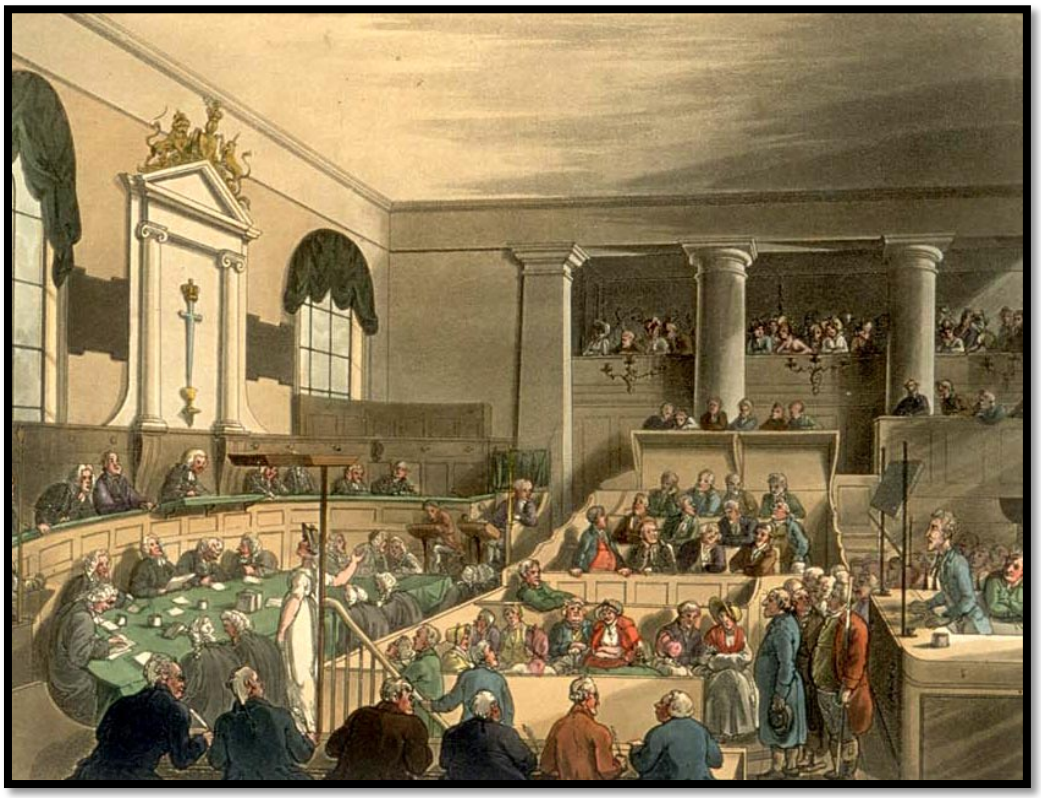


Illustration 3 - *Interior of the Old Bailey, A Trial at the Old Bailey in London* by Thomas Rowlandson and Augustus Pugin in R Ackerman, *The Microcosm of London; or London in Miniature,* vol.2 (Methuen Company 1808) [59]

[58] L Mulchay, 'Back to the Future? The Challenge of the Past for the Courthouses of Tomorrow' in J Simon, N Temple and R Tobe, (eds) *Architecture and Justice,* (Routledge 2013) 78

[59] *A Trial at the Old Bailey in London* by Thomas Rowlandson and Augustus Pugin in R Ackerman, *The Microcosm of London; or London in Miniature,* vol.2 (Methuen Company 1808) Plate 58

Illustration 4 - *The Tichborn Trial* by Frederick Sargent (1874)[60]

Illustration 5 - *Interior of St George's Hall, Liverpool* – Personal Collection (2017)[61]

[60] *The Tichborn Trial* by Frederick Sargent (1874)
[61] *Coroners Court, St George's Hall, Liverpool* – Personal Collection (2017)

Illustration 3 above depicts a scene from the Old Bailey in the early nineteenth century and illustration 5 depicts the current Coroners Court in St George's Hall, Liverpool that served as the city's only crown court from 1854 until 1984. These images act as a point of comparison to the image contained in the *Illustrated Police News* and attest to the accuracy of the press image presented to the public. The architectural style is also clearly represented across these sources and displays the neoclassical style of contemporaneous courtrooms. The case represented in illustration 2 is from the Maybrick Poisoning Case or the Aigburth Poisoning Case, which was heard in in St George's Hall, Liverpool (pictured above in illustration 4). The Maybrick case was widely reported in the period and the accompanying photograph verify the style and layout of the court during this case. Furthermore, illustration 4 depicts the scene in the court of Queen's Bench for the Trial of the Tichborne Claimant. The number of counsel in this scene is clearly comparable to the number of counsel represented in illustration 2, and again attests to the accuracy of the image.

The accuracy of these images is important when analysing the representation of the barrister to the public. It is clear that these images were not fanciful recreations and were not cut from the same cloth as satirical works that are explored later in this chapter. The public would have expected accuracy from these illustrations as mainstream news sources, rather than the fanciful or more critical representations in the satirical press. Furthermore, it can be argued that these in-court images would have tried to represent the individuals and setting with accuracy and sincerity in order to secure their value as reliable news sources and to retain their readership.

Illustration 6 - *A will of £150,000 in dispute, The Penny Illustrated Paper and Illustrated Times,* 9 Dec 1893[62]

The visual representation of court procedure also allowed the public to become familiar with the structure and arrangement of the court. Many criminal cases were represented in the illustrated press, as were civil disputes, both in the Royal Courts of Justice and in the Court of Chancery. The pictorial representation of the court, its layout and the arrangement of the parties, allowed those who had never been to a court to visualise the inside of a court room. For many in the nineteenth century, especially the working classes, it provided their first opportunity to visualise the contemporary courtroom, and the actors within it.

Illustration 6 demonstrates how the public could appreciate the arrangement of the court. It depicts the barristers at the bar, with Sir Charles Russell delivering his opening address to the court, Sir Henry James holding a pen and Sir Edward Clarke listening intently. The junior barristers are positioned behind the bar, one looking down at his notes, one watching the proceedings intently and the third head in hands, reading his notes. The plaintiffs in the suit,

[62] (c) The British Library, *The Penny Illustrated Paper and Illustrated Times,* 9 Dec 1893

the Johnstons, are seated at the back of the court and the defendants, also the Johnstons, are seated along the edge of the court. The end of the inscription (the caption below the image), *'Sir Charles Russell, opening the case for the plaintiffs'*, demonstrates to the public that the counsel for the plaintiffs are seated on the right of the court and the counsel for the defendants on the left. Rowbotham, Stevenson and Pegg have established that the legally nuanced nature of press reporting allowed the public unprecedented access to the details of trials,[63] but it is argued that it was the visualisation of these reports through pictorial journalism that added a whole new dimension to understanding legal processes in Victorian England and Wales. That is not to say that there had not been public engagement with justice and the judicial process prior to this (as argued in the introduction), but, following on from the arguments posed in chapter one, the press of the nineteenth century broadcast these themes to a much wider audience than previously.

Images such as Illustration 6 allowed those familiar with the procedure to recognise individual claimants, defendants, prisoners, legal professionals and witnesses. For those with experience of the courtroom, there was less interest in the arrangement and more interest in the individuals within it, similar to the way they might go to the theatre to watch particular actors. This placed the courtroom and lawyers at the centre of these textual and visual media of popular culture and laid the foundations for the continued focus of cultural media on the legal process.

[63] See generally, J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013)

Furthermore, this image also contains certain class signifiers to differentiate between the various parties within the case, demonstrating how the public of the nineteenth century may have became accustomed to reading visual images and picking up on these visual cues and signifiers. The plaintiffs are depicted holding top hats, a traditional symbol of the upper class, and this conforms to their identities in the case.[64] In the cultural zeitgeist, this may be the press reflecting this association between the upper class and the top hat or may even be leading and contributing to the signification of this class signifier. The dispute concerned the contested will of Mr Patrick Francis Campbell Johnston, which benefited the plaintiffs to the exclusion of the defendants, his nephews and a niece.[65] The plaintiffs were Mr Campbell Johnston's direct descendants and were recognised by the public as distinctly upper class,[66] whereas the defendants were his relatives via marriage as opposed to blood. While the dispute was settled prior to full trial, to the acclaim of the publication,[67] the symbol of the top hat is used as a visual metaphor through which to separate the parties in this dispute. This allowed the public to engage with such visual metaphors and allowed society to read the image, in a way not dissimilar to how we read images in contemporary visual culture. It is clear that the emergence of the visual press in the nineteenth century acted as a foundation of contemporary legal culture.

[64] D Crane, *Fashion and its Social Agendas: Class, Gender and Identity in Clothing,* (University of Chicago Press 1993) 83-84
[65] *The Penny Illustrated Paper and Illustrated Times,* 9 Dec 1893
[66] *Ibid*, "Mr Patrick Francis Campbell Johnston… son of the late Sir Alexander Johnston."
[67] *Ibid*, "On Dec, 1 the litigants came to terms – setting a good example to litigants generally."

Illustration 7 - *The Great Detective Case, The Illustrated Police News,* 24 Nov 1877[68]

As outlined above, the widespread interest in law and the judicial proces was created and encouraged by substantial court reporting by all facets of the press of the nineteenth century, which ensured that the public became familiar with individual barristers, especially those who were famous or infamous. The illustrated press directly encouraged the public to become familiar with individual barristers and allowed the public to visualise such heroes and villains. Otherwise, the press did not offer textual descriptions of the barristers, so without illustration, the characters would not have taken form.

Images such as Illustration 7 from *The Illustrated Police News*, presented to the public individual images of barristers in different cases and allowed the public to visualise/see the characters they were reading about. Arguably, these pictorial representations established the cult of celebrity around barristers by encouraging a greater affinity with the legal heroes and practising villains of the nineteenth century. It also encouraged more substantial engagement with the bar

[68] (c) The British Library, *The Illustrated Police News,* 24 Nov 1877

through the visual image. The combination of textual and visual sources ensured a wider engagement with media through this hybrid approach of text and image.

Illustration 7 displays the defendants in the case, their legal counsel and the judge, Baron Pollock. Outlining the characters in this case and combining it with the title, 'The Great Detective Case', propagated the narrative nature of the law. The style of this illustration is similar to a playbill and outlines the principal actors in the case to facilitate a greater understanding of those characters within the 'drama' of the case. It also illustrates the importance these publications placed upon legal professionals and the barristers' are again represented in their wigs and gowns, and continued to affirm the image of the bar as a profession steeped in history, custom and tradition. Furthermore, the visual representation of legal professionals alongside the defendants in the case emphasised the importance placed on the lawyer as a character in legal procedure.

It was the illustrated press that raised the profile of these barristers and, for the first time in history, established the visual image of the barrister as a recognisable individual in society to most of the engaged population. Much in the same way that TV was described as being a vehicle for participatory democracy,[69] the press was the nineteenth century equivalent. It allowed the public to visualise politicians and other figures, allowed them to reflect upon key issues, form opinions and affirm opinions already held, and even contribute to ongoing debates and discussions through editorials.

[69] M Gurevitch, S Coleman, and JG Bulmer 'Political Communication – Old and New Media Relationships' in E Katz and P Scannell (eds), 'The End of Television? Its Impact on the World (So Far?)' (2009) 625 *The Annals of the American Academy of Political and Social Science Series,* 164

Illustration 8 – ***Earl and Countess Russell in the Divorce Court Tuesday last, The Penny Illustrated Paper and the Illustrated Times,*** **5 Dec 1891**[70]

In chapter two, this thesis explored individual legal heroes and practising villains, exalted or condemned by the press for their professional activities and personal indiscretions. Public interest in individual barristers was stimulated

[70] (c) The British Library, *The Penny Illustrated Paper and the Illustrated Times,* 5 Dec 1891

further by their inclusion in press illustrations. This visualisation of individual barristers likely reinforced the cult of celebrity around them that was outlined in chapter one. Conceptions of visual culture consider the proliferation of the visual as a means of mass communication beyond traditional, textual methods. Barristers who were perceived as heroes, such as Sir Edward Clarke, were also sketched and depicted as such through the visual image (see Illustration 8). The public were interested in Clarke's exploits, and therefore, the editors of press publications appealed to public demand by ensuring that Clarke was represented in visual images. This, in turn, ensured public interest in these celebrity lawyers and encouraged the desire for legal reporting.

Illustration 9 – ***The Baccarat Scandal; sketches in Court by a P. I. P. artist, The Penny Illustrated Paper and the Illustrated Times,*** **13 June 1891**[71]

As can be seen in Illustration 9, the level of detail in this visual depiction of Edward Clarke ensures that he was a recognisable figure to the public and confirms, to a certain degree, his celebrity status that was outlined in chapter one. He is shown speaking in court dressed in his wig, gown and collar, and his arm is clearly held with composure as he talks. This representation of Clarke

[71] (c) The British Library, *The Penny Illustrated Paper and the Illustrated Times,* 13 June 1891

conforms to the textual description of his oratory that was outlined earlier in this thesis. Clarke was famed for his forensic rhetoric and highly praised by the press for his oral argument. This is a detailed and largely accurate representation of Clarke's physical appearance, especially when compared to photographs taken during the following decade.[72] A direct comparison can also be made to the portrait below. This photographic portrait is taken from the autobiography of A Bowker, an illustrious clerk in the first half of the twentieth century, and demonstrates the accuracy and reliability of many of these images in the illustrated press of the nineteenth century. It can certainly be argued that those who knew Clarke's likeness would be able to identify him in such images, regardless of the accompanying attribution. The accuracy of such images in the late nineteenth century were due to the process of wood block engraving,[73] used by the illustrated press, and were often based on popular *Cartes de Visite* as the use of photography became more widespread.[74]

[72] MM Macnaghten, 'Clarke, Sir Edward George (1841–1931)', rev. HCG Matthew, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/32426> accessed 8 April 2014

[73] Discussed above in The Evolution of the Illustrated Press

[74] See generally, LJ Moran, 'Cartes de visite as the first mass media photographic images of the English judiciary: Continuity and Change' in J Gregory, DJR Grey and A Bautz, *Judgement in the Victorian Age,* (Routledge, 2019)

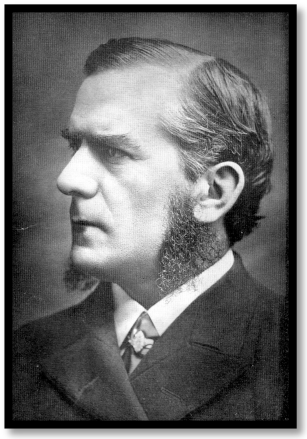


Illustration 10 - *Photographic Portrait of Sir Edward George Clarke QC, circa. 1895*[75]

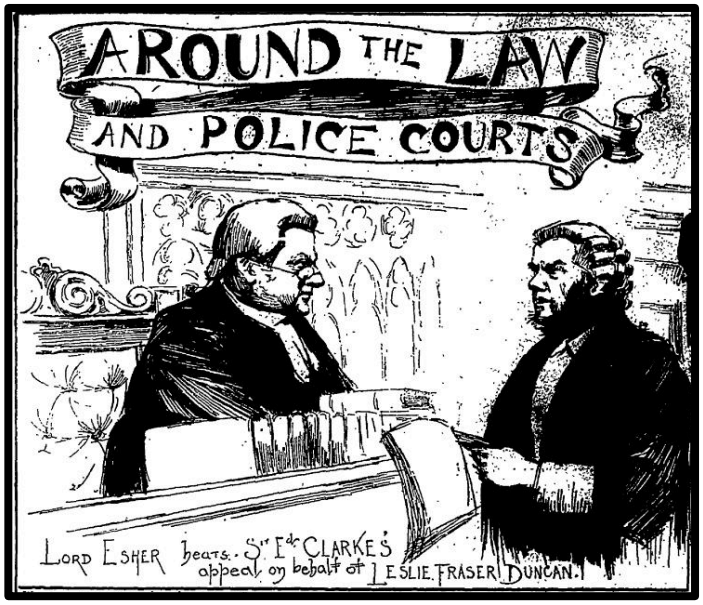


Illustration 11 – *Around the law and police courts, The Penny Illustrated Paper and the Illustrated Times,* 7 Feb 1891[76]

[75] Contemporary portrait, c.1895 reprinted (uncredited) in AE Bowker, *A Lifetime in the Law,* (W.H. Allen & Co, 1961)
[76] (c) The British Library, *The Penny Illustrated Paper and the Illustrated Times,* 7 Feb 1891

Illustration 12 – ***Lord Suffield's action against Mr Labouchere, M. P.: Sir Edward Clark(sic), K. C., Cross-Examining Lord Suffield, The Penny Illustrated Paper and the Illustrated Times,*** **10 May 1902**[77]

Illustration 11 depicts Sir Edward Clarke speaking before Lord Esher on behalf of Leslie Fraser Duncan's appeal and Illustration 12 displays Sir Edward Clarke cross-examining Lord Suffield in his libel suit against Mr Henry Labouchere MP, also editor of the publication *Truth*. Both of these images represent Clarke in his role as an advocate and at the time of these publications, it has been argued earlier that Clarke was recognised as a household name.

The detail of these illustrations shows Clarke as a rather sober character. He is not represented as particularly animated and his face displays a serious, thoughtful expression. Clarke was recognised in the press for his fine displays of forensic oratory[78] and his magnificent speeches,[79] yet he was never described as an energetic or lively speaker. On the other hand, Edward Kenealy, discussed below, often represented during his defence against libel with his arm outstretched. The representation of notable barristers such as Clarke highlighted the positive aspects of the profession, showing the barrister as a professional,

[77] (c) The British Library, *Ibid,* 10 May 1902
[78] *John Bull*, 13 Jun 1891
[79] *Ibid*

highly skilled individual. These images presented may also have perpetuated images that these advocates were to be feared or that they were individuals to respect or be in awe of.

Illustration 11 displays Judge Esher in situ in the court and contains various cultural signifiers as to the role of the judge and barrister in court. He is shown seated at the bench with Clarke presenting his appeal directly in front. Esher is depicted as seated on an ornate and well-upholstered chair, symbolising his authority in the courtroom. He also has a number of books directly in front of him to symbolise his knowledge. Conversely, Clarke is represented as standing in front of Esher's bench demonstrating his subservience to the judge and the court. The courtroom is also represented with ornate wood panelling or stonework, demonstrating to the reader the tradition and history that the Victorians tried to instil in their newly designed courthouses.[80] However, this is also an accurate representation of the scene, and displays to the reader a truthful representation of the bench and courtroom. This accuracy can be compared to illustration 4, which presents a contemporary representation of the Court of Queen's Bench in the Trial of the Tichborne Claimant. This compares closely to the generally factual and functional style of reporting of bar conduct in the textual representations of these cases. While there may be individual signifiers or symbols within illustrations, they also are they to provide a true likeness and true representation of the scene. This can be evidenced by the fact that both illustration 9 and illustration 11 are identical. They both represent Clarke in an identical manner. This maybe as a result of the printing techniques being

[80] See generally, L Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law*, (Routledge 2010)

exploited (such as reusing plates or part of plates) but may also be display accuracy and purvey a mode of truth with these illustrations.

Illustration 12 is formed of numerous component parts in order to depict the key characters in the case. While the main focus of the image is on the courtroom scene, there are a number of surrounding profile images that depict key individuals in the case. As in illustration 11, the judge is again seated above the courtroom demonstrating his supremacy over the proceedings, with the barristers stood at the bar below. This scene also depicts individuals and practitioners within their positions in the courtroom setting. Much like earlier illustrations, this illustration acts as a 'window' into the proceedings. Unlike other examples, this illustration also provides depictions of other witnesses in the case in the form of a surround. This ensured that the reader was shown the pertinent witnesses to accompany the textual outline of the case.

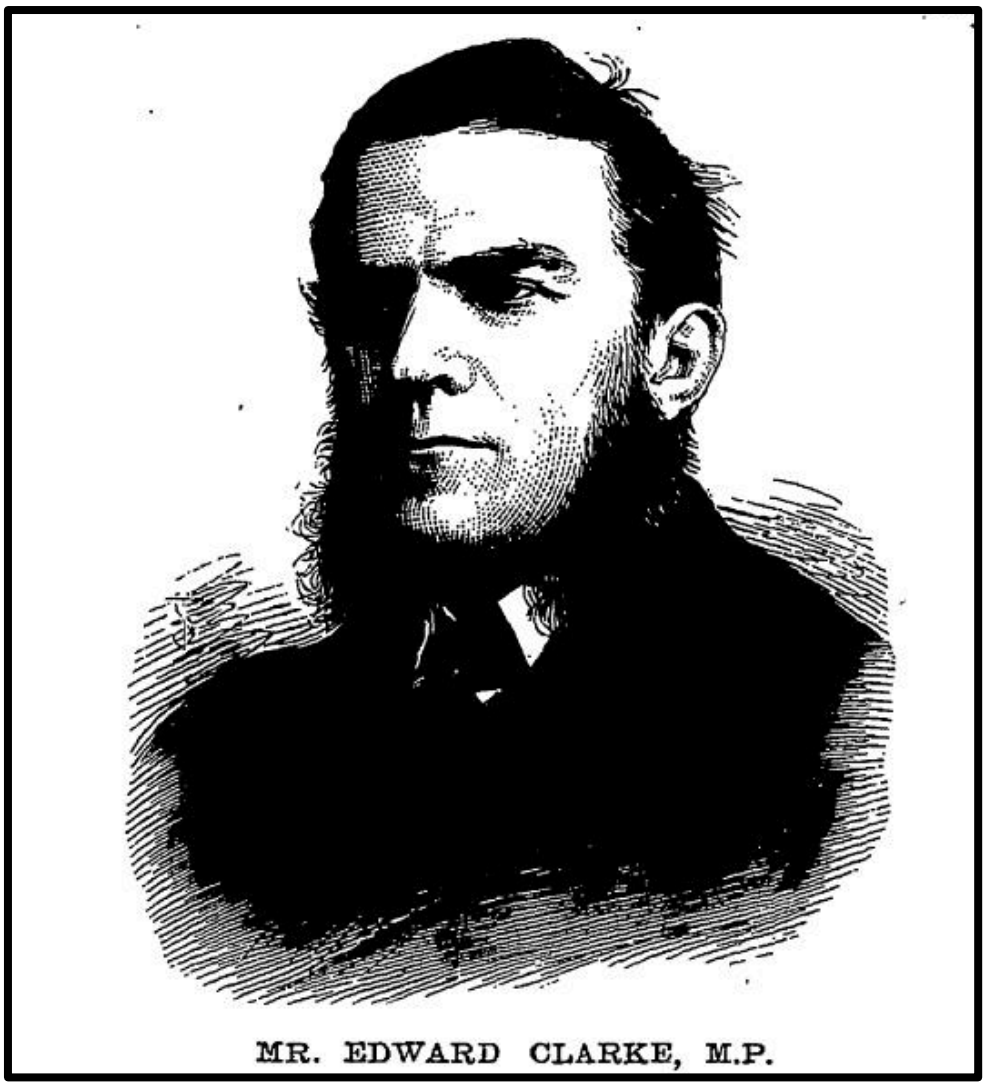


Illustration 13 – *Mr Edward Clarke MP, The Penny Illustrated Paper and the Illustrated Times,* 12 Oct 1882[81]

Clarke's representation celebrity status was not only advanced by text and images of him in his professional capacity as a barrister, but also by his success as a Member of Parliament (MP). Illustration 13 features Clarke when he was in contention for the leadership of the Conservative party against the Marquis of Salisbury. It calls upon the Conservatives to choose between them… "Under Which Chief, Conservatives! Speak, or Die!" clearly demonstrating the respect that Clarke enjoyed in the political sphere also. Clarke subsequently served as

[81] (c) The British Library, *The Penny Illustrated Paper and the Illustrated Times,* 12 Oct 1882

Solicitor General between 1886 and 1892,[82] one of the highest legal offices in the nineteenth century. This illustrated to the public another sphere in which Clarke was a leader in his field and further emphasised his efficacy as an advocate, perpetuating his celebrity status and ensuring that Clarke was depicted in another sphere of press reporting, that of political dispatches and Parliamentary reporting.

The public image of the bar was also constructed through the representation of the barrister in the political sphere. While it is not the focus of this thesis, it is worth bearing in mind that the barrister also featured in the press through their roles as elected or unelected political officers. Many leading barristers also held seats in Parliament and Duman has stated that during the nineteenth century between 11 percent and 20 percent of MPs were barristers.[83] During the period between 1860–1865, there were between 94–101 barristers in Parliament (14 percent–15 percent of the House of Commons).[84] Due to their knowledge of the law and their intimate understanding of the constitutional issues in Britain, members of the profession often rose to become part of the political elite.[85] Duman states that of the 289 cabinet ministers who were in office between 1815 and 1914, 60 (21 percent) had been called to the bar.[86] He also states that other leading political figures of the age, including Peel, Disraeli and Gladstone, attended Lincoln's Inn as students but were never called to the bar.[87] He suggests that students and barristers "breathed the legal atmosphere" in

[82] MM Macnaghten, 'Clarke, Sir Edward George (1841–1931)', rev. HCG Matthew, *Oxford Dictionary of National Biography*, (online edn, Oxford University Press 2004) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/32426> accessed 8 April 2014
[83] D Duman, *The English and Colonial Bars in the Nineteenth Century*, (Croom Helm 1983) 170
[84] *Ibid*
[85] *Ibid*, 184
[86] *Ibid*
[87] *Ibid*

chambers and the dining halls of the Inns.[88] For those from upper middle class families, the Inns acted as an elite dining club, where highborn men could network and distinguish themselves amongst their peers. This suggests that even if MPs had not been called to the bar, a number of these political figures had associations with the profession.

This presents another sphere of press reporting in which the public image of the barrister was constructed in the nineteenth century and another distinct area of press coverage in which the themes of the hero and villain were propagated during the period. The heroes and villains explored in chapter one and later at chapter five of this thesis (namely Edward Clarke, Edward Kenealy, and Edwin James) all served as MPs and therefore featured in reports of Parliamentary proceedings, Parliamentary investigations and various commentaries or editorials on current affairs. This demonstrates further how the bar in the nineteenth century was positioned at the centre of the first truly popular cultural medium. Although not the subject of this thesis, the influence of barristers in the political sphere and the subsequent public image created through Parliamentary reporting is a subject that should be examined in future legal history scholarship.

[88] *Ibid*

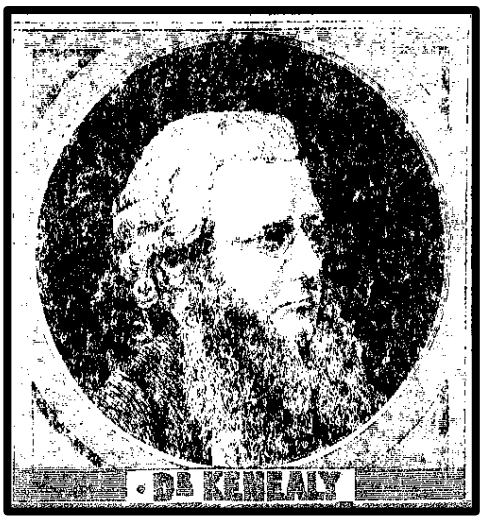


Illustration 14 – *Dr Kenealy, The Illustrated Police News,* 2 Aug 1873[89]

The press of the period also used images to represent and depict those barristers who became notorious for their legal practice. 'Villains' such as Edward Kenealy also featured in such illustrations due to public interest in them, much in the same way that the public were interested in Edward Clarke. Illustration 14 is a profile of Kenealy, which accompanied a trial report from *R v. Castro*,[90] the perjury trial of the Tichborne Claimant, Arthur Orton. Kenealy's conduct in *R v. Castro*[91] created a media furore around the case and the representation of the barrister was damaged accordingly. This was mentioned briefly in chapter one but is dealt with in detail in chapter five

Although the visual image of Kenealy is not particularly negative and represents him in a factual, news-like manner, it did perpetuate the public interest in Kenealy's identity and allowed the public to engage with the legal profession through the hybridised impact of the textual and visual sources. This novel use of the image to accompany a news story encouraged further engagement with these sources and propagated Kenealy's notoriety. The widespread public

[89] (c) The British Library, *The Illustrated Police News,* 2 Aug 1873
[90] Perjury of the Tichborne Claimant
[91] *Ibid*

interest that was facilitated by the provocative nature of the case, coupled with the hybrid manner of Kenealy's representation, immortalised him as a notorious celebrity and subsequently affected the public image of the bar. Kenealy's actions in the case demonstrated a barrister conforming to numerous enduring negative legal stereotypes and anti-lawyer sentiments. The case of Arthur Orton, and Kenealy's actions within it, demonstrated the barrister conforming to themes of the lawyer as dishonest, as a troublemaker and as unethical. Although the images depicting Kenealy do not represent him in such a way, they ensured that the public recognised Kenealy, his notoriety and his public image.

A question must be asked of why the press of the period did not represent Kenealy in an obviously unethical or aggressive way. This may be that the press did not wish to vilify the bar as a whole due to the actions of one man, or that the press were dedicated to accurate reporting. However, *The Penny Illustrated Paper* or *The Illustrated Police News* was not averse to representing criminal images or other deviant behaviour. The most famous example is the reporting of the 'Whitechapel Mystery' [92] and its depiction of the accompanying crime scenes.[93] Therefore, it maybe that they were also concerned with libel claims or subsequent legal action should the represent the barrister in an unfavourable light.

[92] I refer here to Jack the Ripper – *The Penny Illustrated Paper*, 8 Sept 1888
[93] For example, the discovery of Mary Ann Nichols body on the cover of *The Penny Illustrated Paper,* 8 Sept 1888

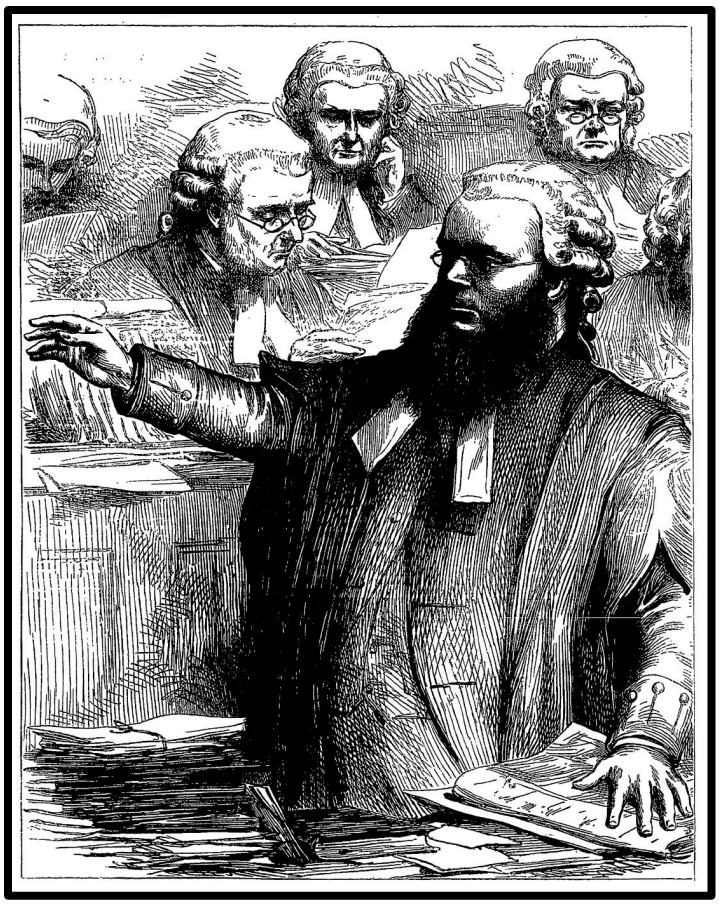


Illustration 15 – *Dr. [sic] Kenealy as counsel for himself, The Penny Illustrated Paper and the Illustrated Times,* 10 April 1875*f*[94]

Nevertheless, there is a difference between the manner of representation of Clarke and Kenealy. This can be observed in illustration 15. Whereas Clarke was consistently represented in a sombre, sober and professional manner, Kenealy was depicted in a far more animated fashion. This reflected his notorious manner of address, especially in *R v. Castro* where he was criticised for the way in which he attacked the bench, and slandered the government and legal institutions. He was vilified for the sheer tenacity and aggression with which he presented his arguments. This is a very different style of illustration to the way in which Clarke is represented and demonstrates a clear disjunction between the way in which these heroes and villains were depicted. The artists represent these

[94] (c) The British Library, *The Penny Illustrated Paper and the Illustrated Times,* 10 April 1875

barristers in two different styles, either due to the different motifs through which they represent these individuals or how they attempt to encapsulate their personalities. While these static images cannot capture the true oratory styles of these individuals in the way that audio-visual recording can, their arm gestures and standing positions within these images can indicate to the reader specific characteristics in their rhetorical style.

Kenealy is represented above with his arm outstretched, in a way analogous to a Methodist preacher and his other hand resting on his brief papers in a position of control. This is very different to the collected and composed gesticulation represented by Clarke in earlier images. While they may not be able (or comfortable) to represent him as shouting in anger, they can include subtle cues such as this to represent him in an accurate way. The public may have been able to read these cues, but when coupled with the textual representation of his conduct the public would have been able to construct an image of Kenealy and, potentially, the bar.

In illustration 15, Kenealy's face is much darker and than the other barristers in the image and comparatively to all others in this sample. It can be surmised that this may be a deliberate decision based on the artist, in order to throw him into shade with the various accompanying connotations. However, this may just be a digitisation issue and not reflective of the original source.

Illustration 16 – *The late Dr Kenealy, The Illustrated Police News,* 1 May 1880[95]

The press also illustrated obituaries of Kenealy following his death, again emphasising his position in the public consciousness and his status as an infamous public character. Illustration 16 is an example of this from *The Illustrated Police News.* It is clear that he was still receiving press coverage in the decade after the Tichborne case and his subsequent disbarment. This clearly demonstrates how barristers who received fame or notoriety remained in the public consciousness and became enduring characters in the legal culture of the press in the nineteenth century.

[95] (c) The British Library, *The Illustrated Police News,* 1 May 1880

Illustration 17 – *A new light upon an old profession, Judy*, 03 Dec 1884[96]

The nineteenth century press also gave the public a fresh perspective of the bar by depicting the barrister outside the courtroom. Illustration 17 represents a barrister dressed in a dinner jacket, engaging in conversation with a young lady. The illustration above accompanied a story of a barrister meeting and talking with the pictured lady, describing his daily tasks. His dress and the

[96] (c) The British Library, *Judy*, 03 Dec 1884

environment within which he is positioned distinguish this barrister as a member of the expanding professional middle class of the nineteenth century. He is obviously a gentleman and depicted as such in this illustration, perpetuating the belief of the bar as a gentleman's profession limited to the upper and middle classes. This was particularly true in the nineteenth century[97] and would have encouraged themes of elitism and exclusivity within this branch of the legal profession. This elitism continued themes of mystery, mistrust, and scepticism around the operation and membership of the profession. To those outside this class (namely the working class), representations such as this continued to encourage a distance between those who used the law or were participants in the legal system, and those who existed outside the system, namely those with little or no access to legal representation or a course of action for addressing wrongdoing.

With the rise of the socialist agenda during the latter years of the period, it was perceived that the law had always been a privilege of the landed class, used by the gentry to oppress the working classes. The legal profession was seen as a facilitator of justice for the rich and a barrier to justice for the poor. To a large proportion of the populace, exposure to the bar and individual legal professionals was gained through newspapers and periodicals. Thus, depictions of the bar enjoying a seemingly affluent, middle class lifestyle beyond the courtroom merely maintained this belief. This perception of the law being operated and used by the middle class echoes issues around social mobility and access to justice, themes

[97] D Sugarman and GR Rubin 'Introduction – Towards a New History of Law and Material Society 1750-1914' in GR Rubin and D Sugarman (eds), *Law, Economy and Society, 1750-1914: Essays in the History of English Law,* (Professional Books Ltd 1984) 90. See also D Duman, 'A Social and Occupational Analysis of the English Judiciary 1770-1790 and 1855-1875' (1973) 17 *American Journal of Legal History* 353, 353-354

that will be returned to in the conclusion to this thesis. The class status of the barrister that can be inferred from Illustration 17 suggests that this lawyer is affluent and financially successful, a source of scrutiny and criticism through the ages.

However, the caption that accompanies this illustration also contains a veiled criticism of the barrister and the nature of their professional activities. The caption seeks to place 'a new light on an old profession' and immediately draws a comparison between the lawyer and a prostitute. Prostitution is often referred to as the oldest profession, much in the way that John Gay did in *The Beggars Opera,*[98] and this article associates the work of a prostitute with the work of a lawyer. This is a signifier the manner through which a barrister would be considered a gun-for-hire and a provider of a debase service. Furthermore, this image may also be testament to the barrister's immoral character. There is implicit symbolism that would suggest that the lady in the image is actually a prostitute. The manner in which she is holding her fan, open and in her left hand, is symbolic of being unengaged and issuing a request of "come and talk to me."[99] This is further evidenced by her low, décolletage neckline, something that had generally fallen out of fashion in the late nineteenth century due to shifting social and moral standards.[100] To represent the profession in such a way is deeply critical of the moral character of this barrister and arguably, his profession.

Throughout the nineteenth century, the periodical press represented the bar through many negative stereotypes and transmitted anti-lawyer sentiment,

[98] J Gay, *The Beggar's Opera,* (Unabridged) (Dover Publications 1999) 1 and Chapter 1 – Historical Context
[99] Unknown, *The Language of the Hand Fan,* allhandfans.com <http://www.allhandfans.com/handfans/levels/language_of_the_fan.htm> accessed 15 Feb 2015
[100] See generally, J Nunn, *Fashion in Costume 1200-2000*, (2nd edn, A&C Black (Publishers) Ltd 2000)

drawing upon themes already existent in legal culture and the public consciousness. The concept of progressivism, highlighted by Barber and Peniston-Bird,[101] propagated stereotypes recurrent in some cultural sources and, due to the mass characteristics of the press, represented them to a wide-ranging audience. The ability of the public to read the image, combined with the hybrid textual approach to the representation of the legal profession, influenced the public image.

The visual image also allowed producers of cultural texts, including newspaper and periodical editors, journalists, illustrators and cartoonists, to be more explicit in their representation of the bar. There are numerous examples of publications being sued for libel by individuals who had been defamed by their papers. In illustration 11 above, Edward Clarke is depicted cross-examining Lord Suffield in his libel suit against Mr Henry Labouchere MP, also editor of the publication *Truth*. Kenealy was also sued by a number of individuals throughout the mid-nineteenth century for his comments and scathing attacks on individuals and institutions in his publication, *The Englishman*.[102]

However, the visual image allowed producers of cultural texts to be far more expressive and use the visual image as a means to convey messages through implication and metaphor. A publication or a textual source could describe an individual barrister as a thief, but would have been at risk of a libel suit. However, to represent him through a pictorial metaphor was far more acceptable, even though both sources were read and understood in the same

[101] S Barber and CM Peniston-Bird, (ed) *History Beyond the Text: A Students Guide to Approaching Alternative Sources,* (Routledge 2009) 8

[102] JA Hamilton, 'Kenealy, Edward Vaughan Hyde (1819–1880)' rev. R McWilliam, *Oxford Dictionary of National Biograph*y, (online edn, Oxford University Press 2004) <http://www.oxforddnb.com/view/article/15356> accessed 8 April 2014

way by the reader. The ability of the producer of such a cultural text to be more scathing ensured that the criticism was more pointed. The representation of individuals, professions and organisation in a more exaggerated form or by means of a cartoon helped to protect the producer from potential legal repercussions. Visual sources also had the ability to engage the consumer of such popular cultural sources in a new manner and were appreciated by a more substantial audience due to its unwritten nature. It provided an alternative cultural source through which the messages conveyed in the newspaper press could be echoed.

The Barrister in the Satirical Illustrated Press of Nineteenth Century

Throughout the period, the satirical press was largely a visual media. In *Punch*, *Fun* and *Judy*, images augmented the textual features and presented representations of the barrister that conformed to stereotypes that had been prevalent in cultural texts for a number of years. However, now these were distributed on a much greater scale. The radical satirical press publications, such as *The Age* and *The Satirist,* did not contain images, as they were small-scale publications with a low readership produced at a low cost. That is not to say that the printing of images in the press was particularly expensive, instead the radical press had to focus on carefully managing cost in order to sustain their publication. Illustrations became more common as the century progressed. For example, there are far more images in *Judy* in the 1880s than there was at its foundation in 1867.

The satirical press often drew upon stereotypes and motifs that already existed in the public mind, reflected it back to their readerships, and led new public opinions about the profession. It drew upon signs already within the public

consciousness in order to further signify the barrister in the minds eye. Even though the satirical press were largely comedic, this comedy was drawn from the shortcomings, hypocrisies, and common characteristics with institutions, professions and sections of society. The bar was a very visible profession in nineteenth century society due to their representation in the press, so it is no surprise that the satirical press also represented the bar extensively. Even though these were comedic publications and the public were aware of this, satire still has the ability to influence and reflect public opinion, and it is argued here that these stereotypes, even if communicated in jest, impact upon the construction of the profession's public image. This section will explore the thematic,[103] visual representation of the bar in the satirical press of the nineteenth century, specifically focusing on *Punch*, *Fun* and *Judy*.

There have been numerous cultural representations that have depicted the lawyer as financially motivated. This negative stereotype has long been the subject of cultural texts and, even in the nineteenth century, was an established theme of anti-lawyer sentiment through which the lawyer had been interrogated. The works of Juvenal,[104] Chaucer,[105] Gay[106] and Hogarth[107] all represent lawyers as fee-hungry predators. However, it was the press representation of barristers, including the accompanying visual images, which ensured themes, motifs and stereotypes entered the public consciousness *en masse*. It was a motif that was used extensively to represent the bar in the press.

[103] These themes are based on M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press, 2005) – Sociological survey of lawyer jokes.
[104] Juvenal and Persius*, Satires,* (HTML eBook, Fordham University Press)
[105] G Chaucer, 'The Sergeant of Law's Tale' in G Chaucer, *The Canterbury Tales*, (reprint, Penguin Classics 2003) 320–322
[106] J Gay, *The Beggar's Opera*, (Unabridged, Dover Publications 1999) 17, Act. 1 Scene 13
[107] W Hogarth, '*Marriage a-la-mode', thenationalgallery.org.uk,* <http://www.nationalgallery.org.uk/paintings/william-hogarth-marriage-a-la-mode-1-the-marriage-settlement> accessed 29 May 2014 - Mr Silvertongue, the Barrister.

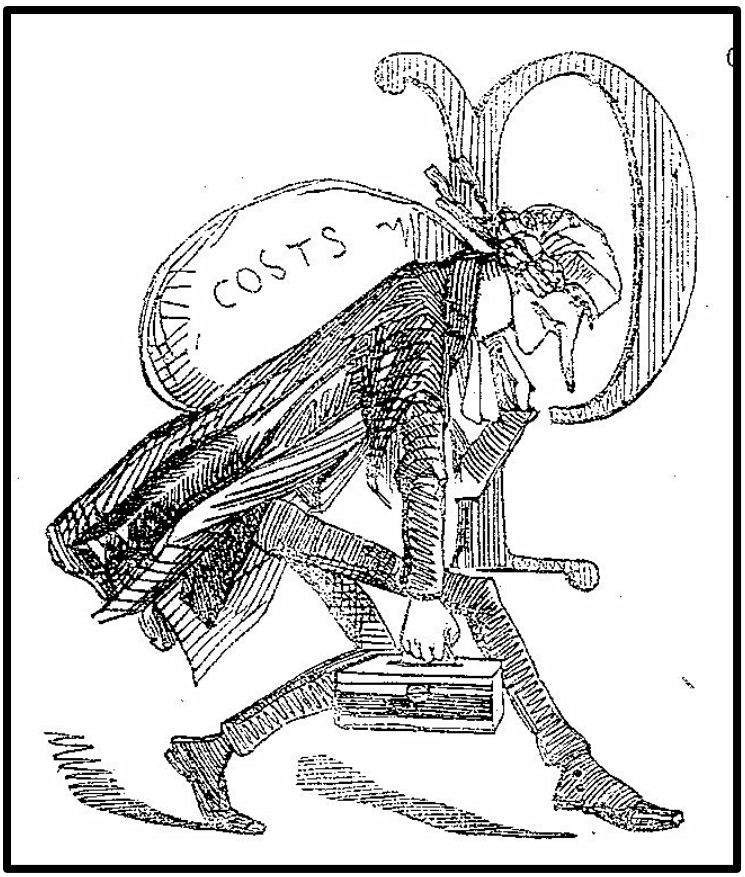


Illustration 18 - *Mrs Swansdown's Work-Table: A Conveyancing Lecture for Ladies, Punch,* vol. 29 (1855)[108]

Illustration 18 is taken from the satirical magazine, *Punch.* It represents the barrister as a happy, long-nosed figure, dressed in his advocacy attire of wig, gown and collar. Over his shoulder is a full sack, indicative of a robber's swag bag, with 'costs' written upon it, and in his other hand a locked money box. The difference between the style of this image and the more factual representations of barristers in the section above is significant. Illustration 18 is more of a caricature or cartoon of the barrister, exaggerating his features and mannerisms. This image promotes the theme that the barrister is motivated by greed, symbolised by his full costs bag. This image encouraged beliefs in this financial incentive but also transmitted an image of the barrister as wealthy. The connotations between

[108] (c) The British Library, *Punch,* vol. 29 (1855)

the bag of costs and a robber's swag bag also encouraged a public image of the bar as dishonest, robbing or swindling their clients for their precious fees. In addition, his physical characteristics are clearly exaggerated, his arms and legs are long and spindly, even insect-like, and his nose is beaked. This lead to the public viewing the barrister as a mosquito, or a blood-sucking insect, which conveyed the theme of greedy and invasive. The barrister is featured as more animal-like than hominid, attempting to create a distinction between normal people and barristers. It also conformed to the theme of the barrister as a predator and highlighted that they were not better than animals, directly contradicting a belief in their superiority and gentlemanly status.

Illustration 19 - *The Bench and the Bullying System, Punch*, vol. 30 (1856)[109]

This association with animals continued beyond exaggerated, animalistic humanoids, and illustrators drew upon a popular literary device of anthropomorphism in representing the barrister in an animalistic and predatory fashion. Anthropomorphism developed as a popular literacy device within children's literature as a response to the ideas of famous naturists, such as Charles Darwin and AR Wallace, who were beginning to publish and present their ideas during the mid-1850s. The popularity of anthropomorphism as a literary device also demonstrates how news media and illustrators drew upon literature and literary devices to inspire their representations of the law, continuing to draw divergent parallels between depictions of law, lawyers and the legal process with tropes and motifs encapsulated in fiction. Illustration 19 is an example of

[109] (c) The British Library, *Punch*, vol. 30 (1856)

anthropomorphism where the barrister is represented as a scorpion, bullying his client and spearing the costs for his case on his tail.

This depiction embodies the theme of the lawyer as both economically driven and as a predatory creature. The association that is drawn between the barrister and a deadly venomous arachnid is a clear representation of the barrister as a predator and dangerous creature. The dangerous nature of the barrister is further emphasised through his desire for financial remuneration. Clearly represented by his pinning his client to the floor with a bill of costs held threateningly over his head, speared on his poisonous tail. A face is drawn on the tail representing his clerk, who was responsible for billing clients, smiling, as remuneration is demanded. The scorpion is also represented in the barrister's gown, wig and collar, ensuring that the representation is explicit. This suggestion of the barrister as a predatory creature and a figure motivated by financial reward furthered the theme of the barrister as greedy and ferocious in his desire for money.

Furthermore, the scorpion may not seem the obvious choice for a dominant predator but there is a particular contextual reason as to why the artist, Capt. H. R. Howard, chose such a creature. Prior to publication of this cartoon, a colony of scorpions had been established at Sheerness on the Isle of Sheppey.[110] This would have made the news to biologists and the public alike. More importantly, I believe that the cartoon speaks more about the character of lawyers than just its *prima facia* message. It is a well-known fact that one of the main predators to scorpions is other scorpions. The intended message drew upon a widely reported naturalist finding and drew allusions to the predatory perception of the bar, particularly that the legal

[110] TG Benton, 'The Life of Euscorpius Flavicaudi' (1991) 19(2) *Journal of Arachnology,* 105

profession is ruthless in the sense that they will betray other members of their vocation in trying to achieve success, most notably in a monetary sense. The idea of preying on other members of the profession could be in reference to the pupillage, clerkship and junior system of training found in the Victorian legal profession. Barristers could give or take cases from their juniors and pay them a lot less of the fees, which is similar to the metaphor of a larger scorpion preying on a smaller one. This cartoon provides a lot of criticism of the legal profession and their practices, while drawing upon a contemporary interest, making an allusion as to the characteristics of the barrister's profession.

Illustration 20 - *Damming a Brooke, Punch,* vol. 35 (1858)[111]

The ferocity of the barrister and the perceived predatory nature of the bar are also represented in the all-encompassing example of anthropomorphism in Illustration 20. All individuals in the court process are represented in animalistic

[111] (c) The British Library, *Punch,* vol. 35 (1858)

form and their respective characteristics and personalities are drawn as parallels to the characteristics of the animals represented. The judge, represented to the upper right of the image, is depicted as an owl, drawing upon established motifs of wisdom, seniority and knowledge. The witness, defendant or prisoner, on the stand in the left hand side of the image, is portrayed as a chick, representing him as vulnerable, weak and even defenceless against the predatory lawyers that form the focus of the image. As in Illustration 19, the barristers are represented as predatory creatures, clearly portrayed as a wolf and an alligator. The predatory and dangerous characteristics of these animals are clearly transferred onto the barristers in this image, conforming to anti-lawyer stereotypes and negative sentiments directed towards the bar. These animals are also portrayed in gowns, wigs and collars to ensure that the public recognise them as representing barristers. This representation of the bar as a predatory animal encouraged the reputation of the barrister as ferocious and aggressive, but images such as this also sought to propagate the wig and gown as recognisable symbols through which the profession was represented.

Illustration 21 - *Legal Curiosity, Punch*, vol. 25 (1853)[112]

The same themes are evidenced in Illustration 21 in which the barrister is represented as a crow. Although not necessarily a predator, an association is drawn between crows and vultures, picking a carcass clean after it has been left. This is particularly stark imagery, and this connotation represents the barrister as a scavenging animal, ready to pick the corpse clean. This is particularly important as the public of the nineteenth century were becoming more accustomed to new procedures and customs in the legal process and procedure, propagated by the press reporting of the nineteenth century. In literature, mythology, folklore and traditional culture the crow and blackbird are shown as harbingers of death and evil. Blackbirds are portrayed in literature and folklore as parasites and often represented pecking at the flesh and even pecking out the eyes of live victims. For example, in the nursery rhyme ‘sing-a-song of sixpence‘, the story goes that “the maid was in the garden hanging out the clothes, when down came a

[112] (c) The British Library, *Punch*, vol. 25 (1853)

blackbird and pecked off her nose." By making a blackbird or crow into a lawyer, the artist is suggesting that lawyers share characteristics with these creatures, which is their parasitical, flesh-hungry nature.

A further symbol that was synonymous with the barrister in this period is featured in this image, that is the barrister's brief bag. This can be seen hanging on the branch next to the crow. These brief bags are still used today, and are used by barristers to carry robes, wigs, brief papers and collars. These brief bags also look like moneybags and would have furthered this idea of the barrister as a financial predator. The crow is also represented in gown, wig and collar, further accentuating how iconic these symbols were in representing the superior legal profession and how important these symbols became in acting as the signifiers through which the bar was represented in the illustrated press of the nineteenth century.

Illustration 22 - *What is a Tubman? Punch,* vol. 33 (1857)[113]

Illustration 22 is a contrast to the preceding satirical images as it represents the barrister in far more normalised terms. Specifically, in a human not animal form, wearing his gown, wig and collar to allow the public to recognise him as a barrister. He is also carrying a bucket full of briefs, clearly representing how this barrister is hoarding briefs, and alluding to the substantial financial remuneration he will receive for this amount of work. The tub full of briefs is also an allusion to the The Tubman, which was one of the two senior posts held by barristers in the Court of Exchequer. The Postman was the most senior outer barrister in the court and The Tubman was the second.[114] As the second most senior counsel, the image above represents this office as holding all of the briefs and work. It is clear to see how representations of the bar such as Illustration 22 propagated the belief that all barristers were rich, affluent and greedy individuals, and constructed a public image accordingly.

[113] (c) The British Library, *Punch,* vol. 33 (1857)
[114] DB Fowler, *The Practice of the Court of Exchequer*: *Upon Proceedings in Equity,* Vol. 1 (J Butterworth, 1817) 9

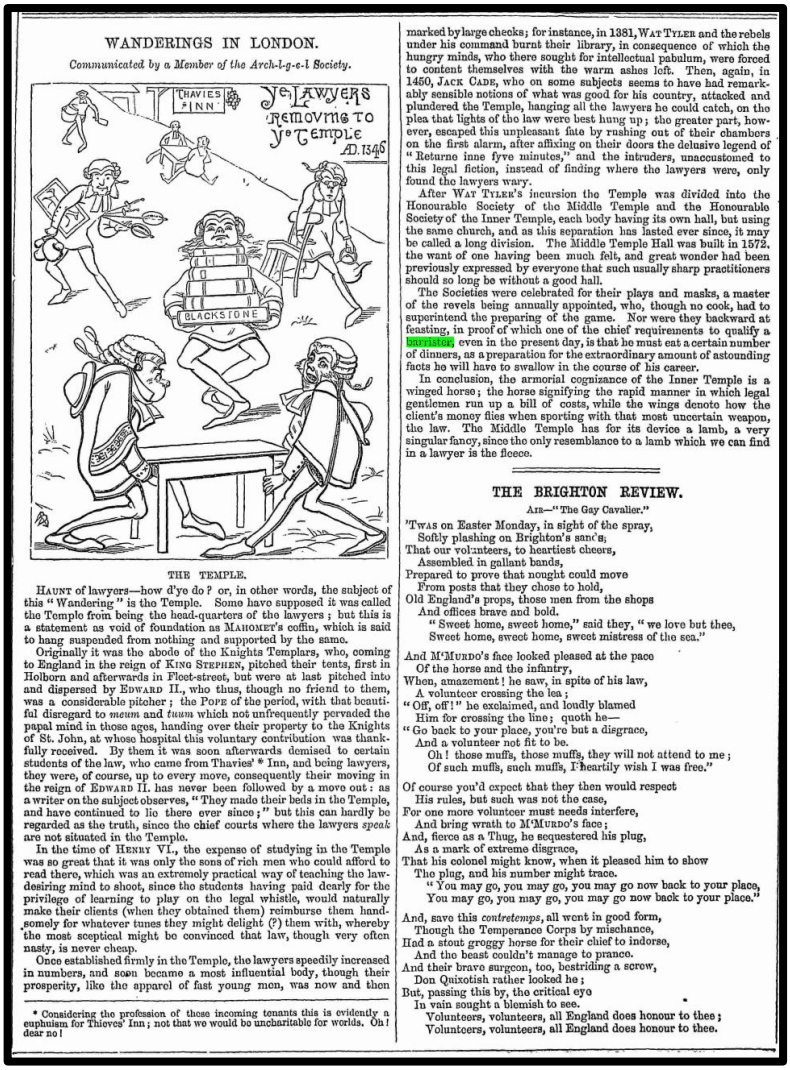
Another theme through which the barrister is represented is as a minion of Satan or as a playmate of the devil. This theme draws upon numerous motifs of the barrister in popular culture, such as the barrister as unethical, a catalyst for conflict, a liar or a betrayer of trust, and as an object of scorn. It also demonstrates how the lawyer can embody sins, most notably greed and pride. The barrister as a minion of Satan or playmate of the devil was not a common theme in the nineteenth century, but there are examples from the period that laid the foundations of a theme that is very familiar in contemporary popular culture.

Illustration 23 - *Supplemental Speech at the Bangor Dinner, Punch,* vol. 47 (1864)[115]

[115] (c) The British Library, *Punch,* vol. 47 (1864)

Illustration 23 demonstrates a barrister feeding a snake, often used in religious iconography as a symbol embodying evil, sin, and Satan. In Christian theological thought, the serpent represents evil and this would have been no different in the nineteenth century. The serpent tempts Adam and Eve to eat the fruit from the tree of knowledge in the Garden of Eden. This tale is in the Book of Genesis and the serpent is intended to represent a demon or even the devil himself tempting Eve through deception. The snake's description is as being "more subtle"[116] than any other creature. In the Book of Revelations it is also revealed that the serpent actually represents the devil, "that old serpent, called the Devil, and Satan."[117] Drawing upon this allegorical allusion, this illustration represents the barrister as a friend of evil because he feeds and nourishes it. Drawing upon this established cultural marker, the press associates the barrister with the devil and as a agent of evil. The barrister is depicted feeding the snake with infant snakes, which presents him as nurturing evil with evil.[118] This demonstrates the barrister as a significant villain, and in the press of the nineteenth century, it encouraged the idea of the barrister as a malevolent villain.

[116] The Bible, *Book of Genesis,* 3:1
[117] The Bible, *Book of Revelations,*12:9
[118] See also M Asimow, 'Embodiment of Evil: Law Firms in Movies' (2001) 48 *UCLA L. Rev.,* who makes reference to 'law firms as greedy old men eating their young.'



WANDERINGS IN LONDON.

Communicated by a Member of the Arch-l-g-e-l Society.

THE TEMPLE.

HAUNT of lawyers—how d'ye do? or, in other words, the subject of this "Wandering" is the Temple. Some have supposed it was called the Temple from being the head-quarters of the lawyers; but this is a statement as void of foundation as MAHOMET's coffin, which is said to hang suspended from nothing and supported by the same.

Originally it was the abode of the Knights Templars, who, coming to England in the reign of KING STEPHEN, pitched their tents, first in Holborn and afterwards in Fleet-street, but were at last pitched into and dispersed by EDWARD II., who thus, though no friend to them, was a considerable pitcher; the POPE of the period, with that beautiful disregard to *meum* and *tuum* which not unfrequently pervaded the papal mind in those ages, handing over their property to the Knights of St. John, at whose hospital this voluntary contribution was thankfully received. By them it was soon afterwards demised to certain students of the law, who came from Thavies' * Inn, and being lawyers, they were, of course, up to every move, consequently their moving in the reign of EDWARD II. has never been followed by a move out: as a writer on the subject observes, "They made their beds in the Temple, and have continued to lie there ever since;" but this can hardly be regarded as the truth, since the chief courts where the lawyers *speak* are not situated in the Temple.

In the time of HENRY VI., the expense of studying in the Temple was so great that it was only the sons of rich men who could afford to read there, which was an extremely practical way of teaching the law-desiring mind to shoot, since the students having paid dearly for the privilege of learning to play on the legal whistle, would naturally make their clients (when they obtained them) reimburse them handsomely for whatever tunes they might delight (?) them with, whereby the most sceptical might be convinced that law, though very often nasty, is never cheap.

Once established firmly in the Temple, the lawyers speedily increased in numbers, and soon became a most influential body, though their prosperity, like the apparel of fast young men, was now and then marked by large checks; for instance, in 1381, WAT TYLER and the rebels under his command burnt their library, in consequence of which the hungry minds, who there sought for intellectual pabulum, were forced to content themselves with the warm ashes left. Then, again, in 1450, JACK CADE, who on some subjects seems to have had remarkably sensible notions of what was good for his country, attacked and plundered the Temple, hanging all the lawyers he could catch, on the plea that lights of the law were best hung up; the greater part, however, escaped this unpleasant fate by rushing out of their chambers on the first alarm, after affixing on their doors the delusive legend of "Returne inne fyve minutes," and the intruders, unaccustomed to this legal fiction, instead of finding where the lawyers were, only found the lawyers wary.

After WAT TYLER's incursion the Temple was divided into the Honourable Society of the Middle Temple and the Honourable Society of the Inner Temple, each body having its own hall, but using the same church, and as this separation has lasted ever since, it may be called a long division. The Middle Temple Hall was built in 1572, the want of one having been much felt, and great wonder had been previously expressed by everyone that such usually sharp practitioners should so long be without a good hall.

The Societies were celebrated for their plays and masks, a master of the revels being annually appointed, who, though no cook, had to superintend the preparing of the game. Nor were they backward at feasting, in proof of which one of the chief requirements to qualify a barrister, even in the present day, is that he must eat a certain number of dinners, as a preparation for the extraordinary amount of astounding facts he will have to swallow in the course of his career.

In conclusion, the armorial cognizance of the Inner Temple is a winged horse; the horse signifying the rapid manner in which legal gentlemen run up a bill of costs, while the wings denote how the client's money flies when sporting with that most uncertain weapon, the law. The Middle Temple has for its device a lamb, a very singular fancy, since the only resemblance to a lamb which we can find in a lawyer is the fleece.

* Considering the profession of these incoming tenants this is evidently a euphuism for Thieves' Inn; not that we would be uncharitable for worlds. Oh! dear no!

THE BRIGHTON REVIEW.

AIR—"The Gay Cavalier."

'TWAS on Easter Monday, in sight of the spray,
Softly plashing on Brighton's sands,
That our volunteers, to heartiest cheers,
Assembled in gallant bands,
Prepared to prove that nought could move
From posts that they chose to hold,
Old England's props, those men from the shops
And offices brave and bold.
"Sweet home, sweet home," said they, "we love but thee,
Sweet home, sweet home, sweet mistress of the sea."

And M'MURDO's face looked pleased at the pace
Of the horse and the infantry,
When, amazement! he saw, in spite of his law,
A volunteer crossing the lea;
"Off, off!" he exclaimed, and loudly blamed
Him for crossing the line; quoth he—
"Go back to your place, you're but a disgrace,
And a volunteer not fit to be.
Oh! those muffs, those muffs, they will not attend to me;
Of such muffs, such muffs, I heartily wish I was free."

Of course you'd expect that they then would respect
His rules, but such was not the case,
For one more volunteer must needs interfere,
And bring wrath to M'MURDO's face;
And, fierce as a Thug, he sequestered his plug,
As a mark of extreme disgrace,
That his colonel might know, when it pleased him to show
The plug, and his number might trace.
"You may go, you may go, you may go now back to your place,
You may go, you may go, you may go now back to your place."

And, save this *contretemps*, all went in good form,
Though the Temperance Corps by mischance,
Had a stout groggy horse for their chief to indorse,
And the beast couldn't manage to prance.
And their brave surgeon, too, bestriding a screw,
Don Quixotish rather looked he;
But, passing this by, the critical eye
In vain sought a blemish to see.
Volunteers, volunteers, all England does honour to thee;
Volunteers, volunteers, all England does honour to thee.

Illustration 24 - *The Temple, Fun,* 18 Apr 1863[119]

Illustration 24 also represents the barrister as a minion and the Inns of Court as the home of such minions. The illustration depicts imp-like creatures, moving to the Temple, the heart of legal London, in order to found the Inns of Court. Although they may not be directly relatable to Satan or represented directly as a minion of evil, their manner of representation is that of spritely mischief. They are represented in a comedic manner, in a similar way to fairies or pixies, creatures that were known in Victorian literature for their mischievous nature. There was a great proliferation of fairy tales in children's literature during

[119] (c) The British Library, *Fun,* 18 Apr 1863

the nineteenth century[120] and many works of popular literature drew from themes and motifs based around fairy kingdoms and old British mythology.[121]

Illustration 24 demonstrates the illustrated press drawing upon popular literary themes and motifs in order to represent the bar. This increased public engagement by drawing upon tropes that were already familiar in the public consciousness. The representation of these barristers as mischievous creatures emphasises their identity as minions for their clients, and for the wider cause of justice. They are not portrayed as good influences on the process and administration of justice, but are represented as mischievous troublemakers obstructing and acting as barriers to effective justice. The number of such creatures in this image also denotes the proliferation of lawyers during the nineteenth century and is reminiscent of eighteenth-century satirical illustrations of lawyers swarming before terms.[122] Illustrations such as this stimulated beliefs of a surplus of lawyers in nineteenth century England, just as Dan Quayle's comment did during the 1980s.[123] Finally, the consistent and recurrent iconography of the bar is present, and each of the fairies is represented in gown, wig and collar propagating public familiarity with these symbols and tropes of illustrative convention.

The barrister as a fomenter of strife and conflict is a theme that was cultivated by the characteristics of the barrister's professional roles and responsibilities, and the bar's public adversarial activities. The extensive law

[120] J Schacker, *National Dreams: The Remaking of Fairy Tales in Nineteenth Century England,* (University of Pennsylvania Press 2003) 1–2
[121] See generally, HC Andersen, *Hans Christian Andersen's Fairy Tales,* (Acheron Press 2012) Kindle edition; C Kingsley, *The Water-Babies,* (Wordsworth Editions Ltd 1994); J Ruskin, *The King of the Golden River,* (Book Jungle 2010)
[122] *'Lawyers in Term'* by W Dent (J Nunn, Bookseller, Stationers and Printsellers, 1786)
[123] M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (University of Wisconsin Press 2005) 33

reporting and trial coverage in the press of the period ensured that this theme remained firmly in the public consciousness due to exposure of the barrister's rhetoric, oratory and actions in court. Naturally, the diverse exposure to court reporting established in chapter one, and the various heroes and villains that were constructed in the public image of the profession, directed how the bar was illustrated in the visual press of the period. Various factors contributed to the perpetuation of the anti-lawyer stereotype. These included new conventions in trial procedure,[124] the major introduction of the barrister in criminal defence,[125] the more widespread exposure of court procedure through the press of the period,[126] and the exposure of ruthless villains, such as Edward Kenealy. It demonstrates that these sources of visual culture draw directly upon themes embodied in the social consciousness and in other cultural texts.

[124] See generally, DJA Cairns, *Advocacy and the Making of the Adversarial Criminal Trial 1800–1865,* (OUP 1998)
[125] *Ibid*
[126] J Rowbotham, K Stevenson and S Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility 1820–2010,* (Palgrave Macmillan 2013) 14–17

Illustration 25 - *The Comic Encyclopaedia – Barristers, Fun*, 24 May 1862[127]

Illustration 25 depicts a barrister dressed in gown, wig and collar, his mouth wide as if shouting. Behind him stands a prisoner in the dock surrounded by two guards. The barrister is displayed pointing at the prisoner, clearly in the midst of his cross-examination or closing speech. His facial expression represents him as particularly fierce and his face is contorted in anger as he

[127] (c) The British Library, *Fun*, 24 May 1862

shouts. This clearly represents the lawyer as a creator of conflict who uses anger and rage in his professional practice. Barristers such as Edward Kenealy advanced this image during the period and even legal heroes, such as Sir Edward Clarke, were renowned for their in-depth cross-examinations. Although the courtroom manner of Kenealy and Clarke were very different, they were still noted as fomenters of strife and were represented as propagating conflict. Yet, it was the type of representation of the barrister in Illustration 22 that truly promulgated the public image of the barrister as a troublemaker and catalyst for conflict.

Illustration 26 - *Protection to Barristers, Punch,* vol. 21 (1851)[128]

[128] (c) The British Library, *Punch,* vol. 21 (1851)

This idea is further demonstrated in Illustration 26, which is a far more critical and serious representation of the barrister as a troublemaker. It also demonstrates the barrister engaging in and instigating conflict. In this illustration a barrister, obviously wearing his gown, wig and collar, is represented as physically assaulting his clerk (or client), unmistakeably kicking him and punching him out of the door of his chambers. This obvious antagonism displays the characteristics of the barrister as aggressive, ferocious and argumentative. This illustration not only provides further evidence as to the aggressive and confrontational characteristics of the barrister but also demonstrates the barrister engaging in illegal conduct outside the courtroom.

Many representations of the barrister in the nineteenth century depict him undertaking professional in-court activities but this source also depicts the barrister engaging in conflict in his chambers, which is represented by the bookcases on the walls and the papers strewn around the floor. The disarray in his chambers adds to the representation of the lawyer as a fomenter of strife and even represents the barrister as disorganised, alluding to an unsystematic and disordered existence. This disharmony in his chambers is directly reflective of the criticism being levelled at the barrister on a personal level. This is similar to the literary concept of pathetic fallacy, where the natural environment is used to represent the emotions of the subject of the literary piece.[129] The concept of pathetic fallacy was examined, and the term coined, by the Victorian art critic John Ruskin. Although this does not relate directly to physical environments, it does demonstrate that the depiction of the barrister's working environment is representing a character trait. It also reveals how this mass form of culture,

[129] J. Ruskin, 'Of the Pathetic Fallacy' from (1856) 3(4) *Modern Painters*, <http://www.ourcivilisation.com/smartboard/shop/ruskinj/> accessed 8 April 2014

namely the illustrated press, drew upon techniques and devices more commonly found in high culture, which demonstrates the relationship between these various cultural texts.

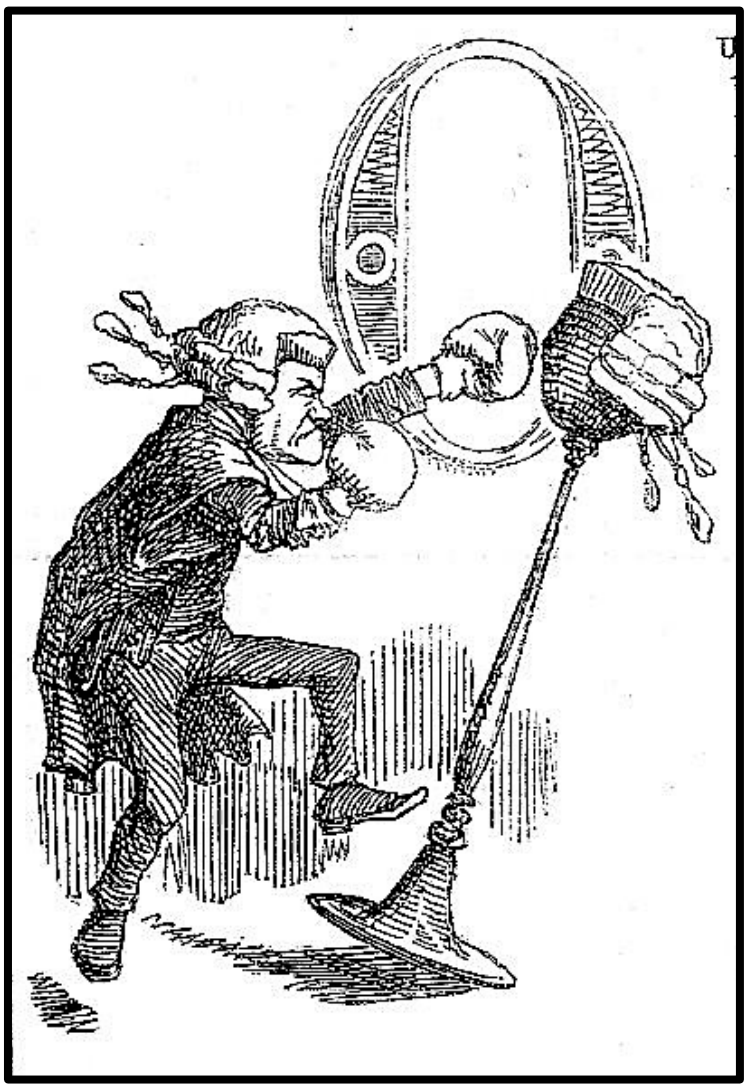


Illustration 27 - ***A staircase full of lawyers: our second floor, Punch,*** **vol. 35 (1858)**[130]

[130] (c) The British Library, *Punch,* vol. 35 (1858)

Illustration 28 - *Battle of the big wigs, Punch,* vol. 36 (1859)[131]

Illustrations 27 and 28 both demonstrate barristers in their roles as fomenters of strife and conflict, depicting the barrister in his adversarial role and engaged in various forms of combat against each other. Illustration 27 represents the barrister (again dressed in gown, wig and collar) boxing with a punch bag, upon which rests another barrister's wig. This evidently symbolises the barrister sparring in order to prepare for upcoming conflict with a fellow barrister. This suggests that the public image of the barrister's work was akin to fighting. This again forwarded the belief that barristers promoted conflict. Illustration 28

[131] (c) The British Library, *Punch,* vol. 36 (1859)

portrays barristers engaged in combat, both fencing in their gown, wig and collar, and one is carrying a brief in his hand. This brief is distinguishable by its shape and its ribbon (modern day briefs are also tied in this way). This image represents the theme of barristers fighting one another for the interests of their clients or engaging in conflict just to win. Furthermore, the manner in which one of the barristers is holding the brief also suggests that the barristers are fighting over work. This may provide evidence for the competition amongst barristers for work that gave rise to the 'Mr Briefless' character throughout the early volumes of *Punch*[132] and that led to junior barristers reporting for the press (as discussed in chapter two).

There is also an allegorical comparison that can be drawn here between the forms of combat that the barristers are engaged in. Two very different forms of combat are represented with very different connotations. Boxing, or prize fighting in the nineteenth century, was the preserve of the poor, working and criminal classes. Prize fighting had traditionally had a "dubious association with the criminal underworld"[133] and by the nineteenth century had become a vehicle for illicit gambling, match fixing, and corruption.[134] Again, the reformation of prize fighting had been in the public consciousness throughout the mid-nineteenth century, and criticisms of the sport had resulted in a number of rules changes in the 1850s.[135] By representing the barrister is such a way, they drew upon the idea of the barrister as a common brawler, and drew upon allusions of prize-fighters as corrupt friends of criminals. This is different to the representation of

[132] *Punch,* vol. 9 1845
[133] J Anderson, 'Pugilistic Prosecutions: Prize Fighting and the Courts in Nineteenth Century Britain' (2001) 21(2) *Sports Historian,* 35
[134] *Ibid,* 35
[135] *Ibid,* 38

the barrister in illustration 28, which represents the barrister engaging in a fencing match. This was viewed as a different form of combat to prize fighting and was viewed as a more gentlemanly pursuit.[136] It could be argued that this demonstrates a shifting perception of the role of barrister's work, from engaging in gentlemanly combat in the mid-1840s to more debased combat in the late 1850s. This could represent the changing role of the advocate in the evolving trial procedure of the mid-nineteenth century[137] and depicts the barrister as a fomenter of strife and as a combatant.

Another theme that emerges through the analysis of the text is the barrister as an object of scorn. This is a theme that developed because the barrister is used as a visual metaphor for the law and the legal process, which attracted a lot of criticism in the nineteenth century. This will also be discussed in chapters four and five. As discussed earlier, the barrister's court dress, specifically the gown, wig and collar, became a recognisable visual metaphor and a signifier of the law. When Victorian illustrators needed to visually portray the law as an institution, they drew upon recognisable symbols associated with the law and chose the traditional barrister's dress. This demonstrates how fundamentally important to the legal process the barrister was, and indicates that barristers were central to the functioning and identity of the law during this period.

The press criticised the law and highlighted the inefficiencies of this institution, through exposing disdain for the barrister as a representative of the profession. This subsequently affected the public image of the barrister, and even

[136] S Harrison, 'Horace and the Construction of the English Victorian Gentleman' (2007) 34(2) *Helios,* 210
[137] See generally, DJA Cairns, *Advocacy and the Making of the Adversarial Criminal Trial 1800–1865,* (OUP 1998) and AN May, *The Bar and the Old Bailey, 1750-1850,* (University of North Carolina Press 2003)

conveyed the message that the barrister embodied these inefficiencies. This is a profound finding and conveys the biggest association between the law and lawyers, and the subsequent intertwined nature of their representation to the public of the nineteenth century. Simply put, the bar came to embody the inefficiencies of not just its own institution but of the law as a whole.

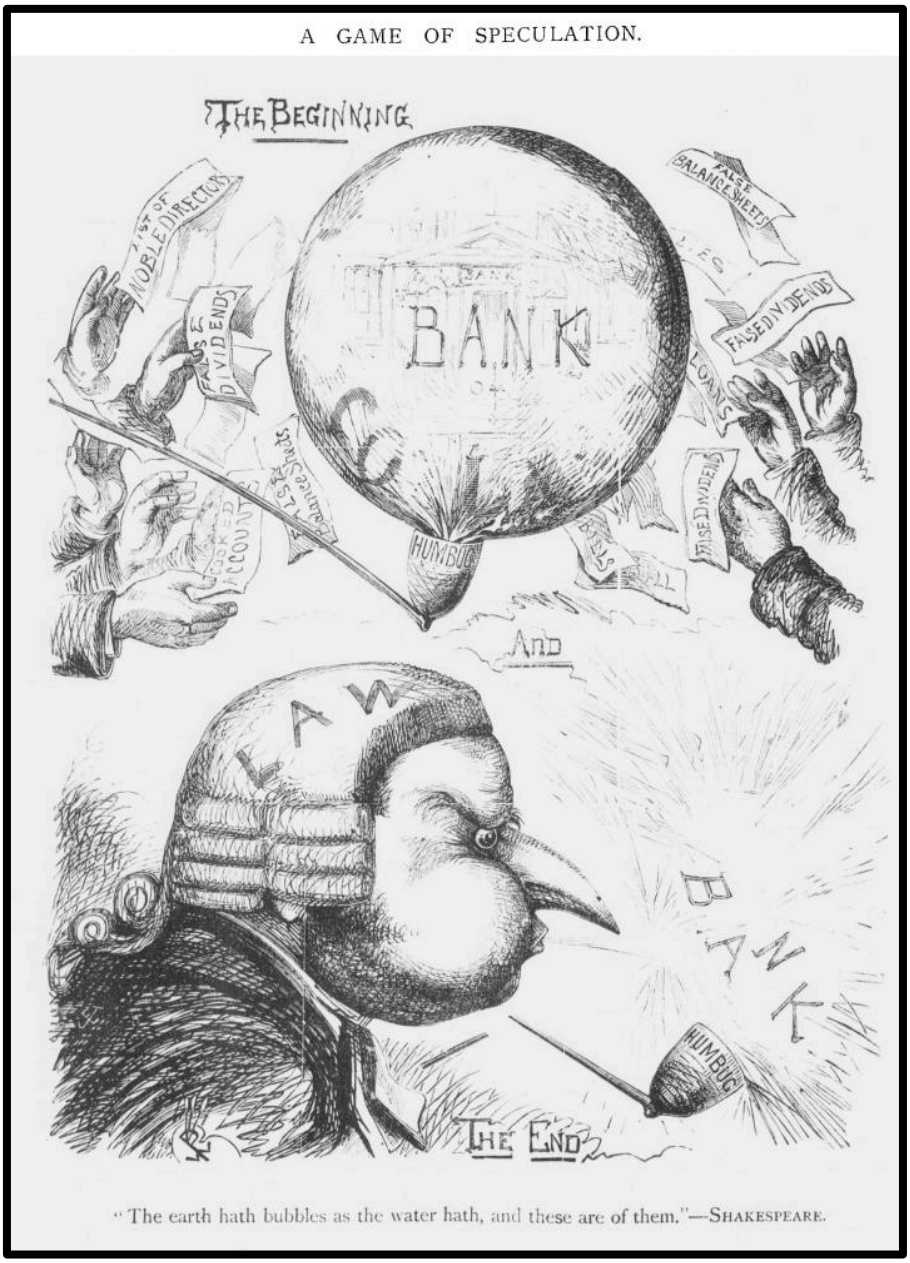


Illustration 29 - *A game of speculation, The Illustrated Police News,* 3 Dec 1887[138]

[138] (c) The British Library, *The Illustrated Police News,* 3 Dec 1887

Illustration 29, entitled a Game of Speculation, intends to represent the passage of the Savings Banks Act 1887[139] which sought to protect investors by encouraging investment in government stock no private investment. The law sought to protect investors by encouraging them from investing in private banks and high-risk investments, instead in trustee controlled government investments. The law is represented as a barrister, dressed in gown, wig and collar, and possessing a beak and bird-like features. This is another example of anthropomorphism, and also clearly demonstrates how the gown, wig and collar became a symbol through which illustrators could portray the law. This illustration depicts the law as a powerful force in nineteenth century society and in preserving economic stability of the Victorian age.

As mentioned earlier, the bar is a visual metaphor for the law, and this illustration displays the bar and subsequently the barrister as the object of such criticism. Through a process of transference, criticism levelled at the law in these illustrations also impacted the public image of the bar during the period, as the bar became synonymous with law, acting as its distinctive visual metaphor.

The final theme is the representation of the barrister as a betrayer of trust. This is a theme that was encouraged by the nature of the bar's professional activities. Parallels had been drawn with this concept of the lawyer as a liar in earlier sources of popular culture, and continued in the nineteenth century. The works of Chaucer, Molière, Gay, and Hogarth all contain references to the lawyer as dishonest. [140]

[139] Savings Banks Act (1887) 50 & 51 Vict c. 40
[140] See chapter one

In Geoffrey Chaucer's *The Canterbury Tales*, his Serjeant at law is described as humanly fallible, being portrayed as, "Nowhere so busy a man as he there was, And yet he seemed busier than he was."[141] This suggests he is a betrayer of trust and morally deficient. He is misrepresenting his work and professional undertaking to display to the world his demanding and arduous workload, either to create a veneer of success or to profit more substantially from his professional work. This naturally encourages another theme of the lawyer as greedy.

The lawyer in Molière's *Le Médecin Volant* is exposed as a fraud and Sganarelle highlights his lack of learning to the audience.[142] This again exposes the lawyer as misrepresenting his learning and his knowledge, which transmits directly to the audience. John Gay in *The Beggar's Opera* compares the legal profession to Peachum's career as a corrupt thief taker.[143] This highlights the apparent corruption and moral deficiency that stigmatised the profession, and suggests the lawyer is a liar.

In his satirical pictorial sequence, *Marriage à la Mode,* William Hogarth also depicts the lawyer, specifically the barrister, as a liar who lacks morals. The first image in this sequence depicts a barrister overseeing the marriage agreement between two individuals from affluent backgrounds. However, further on in the sequence the barrister is portrayed leaving the bedchamber of the young bride, having stabbed and mortally wounded her husband. This duality between his professional and private existences demonstrates the barrister as dishonest and depicts a public image of the barrister's self-motivated nature.

[141] B Seaman, 'Lawyers in Chaucer's Time' (1982) 6(2) *ALSA Forum,* 187
[142] Molière, *Le Médecin Volant,* (C Wall trans. Project Gutenberg 2008)
[143] J Gay, *The Beggar's Opera,* (Unabridged, Dover Publications 1999) 2, Act 1, Scene 1

As mentioned earlier, the new procedures and conventions that began to develop in the late eighteenth century in relation to a barrister's role in court and the developing adversarial features of the legal process encouraged the public to question the ethics and morality of the profession. The concept of equality of arms, which was encouraged by the growing right to legal representation, invigorated more widespread criminal defence and an increasing number of barristers were engaged in criminal defence in the nineteenth century. This association with criminal defence, and a wider association with the criminal class encouraged the concept of the barrister as lacking in good morals. Their role in exposing flaws in arguments and raising questions around evidential information led to the perpetuation of the theme of the lawyer as a liar. All of this stemmed from a lacked understanding of court procedure, including the barrister's role in legal procedure. For example, the traditional legal maxim of 'innocent until proven guilty' and the subsequent right to a legal defence lead to the idea that a barrister can, and should, represent his client with no perception or opinion of his client's guilt. However, this can be difficult for members of the public to understand. The public often perceive the lawyer, specifically the barrister, as a 'gun for hire', happy to represent criminals for financial reward, and subsequently bringing into question the morals and integrity of individuals and the profession as a whole. This would perpetuate the idea of the barrister as unethical in both criminal and civil cases.

Finally, the increased inclusion of the barrister in legal procedure, a distinct increase in litigation encouraged by the industrial revolution, and the subsequent exposure of the lawyer in press reporting of the legal process, propagated the concept of the barrister as morally deficient and profiting from the misfortune of

others. This is an important theme due to the costs related to the legal process and the nature of undertaking actions in court. A barrister would be engaged at the worst times in a person's life and would be perceived as profiting from the sorrow and troubles of others. Even if an individual were successful in a lawsuit, resentment would still be felt towards the high cost of engaging legal counsel.

Themes of the lawyer lacking morals were also echoed in works of literature. Charles Dickens's *Bleak House*[144] is a renowned example from the mid-nineteenth century; Mr Tulkinghorn is a morally questionable lawyer, and the court fees incurred throughout the Jarndyce case adhere to the theme of profiting from the misfortune of others. The theme of the barrister as a liar and as a dishonest character was therefore a particularly striking motif in the popular culture of the nineteenth century.

[144] C Dickens, *Bleak House, (*reprint, Penguin Classics 2011)

A LEGAL DIFFICULTY.

LORD CHIEF JUSTICE. "NONSENSE! YOU MUSTN'T BRING THAT BRIBING FELLOW BEFORE US;—*WE* SHOULD HAVE TO BE *IN EARNEST*."

Illustration 30 - *A Legal Difficulty, Punch,* vol. 54 (1868)[145]

Illustration 30 relates directly to this theme of the barrister as a deceiver and calls into question the moral integrity of the bar. In this illustration the Lord Chief Justice, Sir Alexander Cockburn, is depicted wearing a barrister's gown,

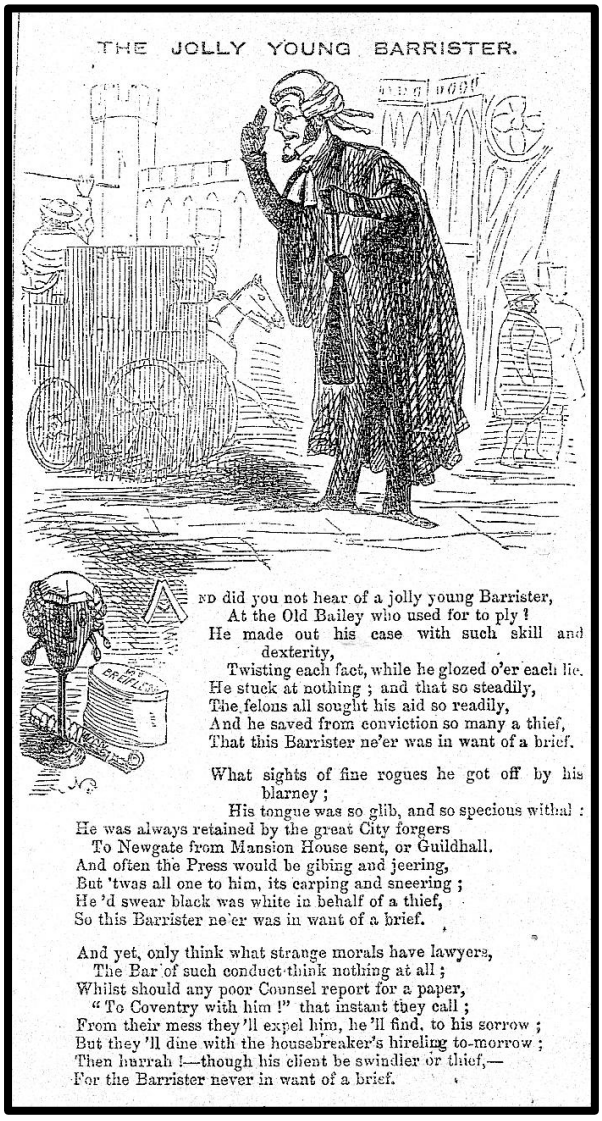
[145] (c) The British Library, *Punch,* vol. 54 (1868)

wig and collar conversing with Benjamin Disraeli, the Prime Minister dressed as a policeman. They are discussing the possibility of allowing Parliament to transfer the jurisdiction of election petitions from the House of Commons to the High Court of Justice. This was an attempt to prevent bribery and corruption in Parliamentary elections through the examination of such corruption by an independent judicial panel.

This image is a particularly noteworthy illustration as it depicts these individuals and their respective institutions through visual metaphor. Sir Alexander Cockburn and the law as a barrister, Parliament and the bribery act as a finely dressed gentlemen and Benjamin Disraeli and the office of Prime Minister as a policeman to maintain control over the house. It demonstrates how the gown, wig and collar became a visual metaphor for the law and an icon through which to represent the law and the judicial process during the period. It also allows the public to recognise the Lord Chief Justice, a member of the judiciary, as a legal practitioner. Much like the discussion in the preceding section, visual representations such as this, of leading practiconers and judges, ensured that the public were aware of these important legal characters and (see the discussion in chapter two) it can be argued that this furthered the cult of the celebrity barrister. This demonstrates how influential the imagery of the bar was in constructing a public image of the profession and it questions the moral integrity of the bar and propagates their representation as betrayers of trust.

Benjamin Disraeli sought to reform Parliament and clean up Parliamentary procedure, therefore placing trust and responsibility in the hands of the law. However, the criticism of the law and the barrister's profession is apparent from the caption to this image, which reads 'Nonsense! You mustn't bring that bribing

fellow before us: – *We* should have to be *in earnest*' and suggests that the legal profession cannot deal with the responsibility of being impartial. It also suggests that they are not honest in their normal capacity as lawyers and that to be honest and trustworthy goes against their usual manner of working. This is a particularly stark criticism and suggests that the bar and judges are ordinarily dishonest and unethical.



THE JOLLY YOUNG BARRISTER.

AND did you not hear of a jolly young Barrister,
At the Old Bailey who used for to ply?
He made out his case with such skill and dexterity,
Twisting each fact, while he glozed o'er each lie.
He stuck at nothing; and that so steadily,
The felons all sought his aid so readily,
And he saved from conviction so many a thief,
That this Barrister ne'er was in want of a brief.

What sights of fine rogues he got off by his blarney;
His tongue was so glib, and so specious withal:
He was always retained by the great City forgers
To Newgate from Mansion House sent, or Guildhall.
And often the Press would be gibing and jeering,
But 'twas all one to him, its carping and sneering;
He 'd swear black was white in behalf of a thief,
So this Barrister ne'er was in want of a brief.

And yet, only think what strange morals have lawyers,
The Bar of such conduct think nothing at all;
Whilst should any poor Counsel report for a paper,
"To Coventry with him!" that instant they call;
From their mess they 'll expel him, he 'll find, to his sorrow;
But they 'll dine with the housebreaker's hireling to-morrow;
Then hurrah!—though his client be swindler or thief,—
For the Barrister never in want of a brief.

Illustration 31 - *The jolly young barrister, Punch,* vol. 9 (1845)[146]

[146] (c) The British Library, *Punch,* vol. 9 (1845)

Illustration 31 also represents the bar as morally deficient and the accompanying poem directly questions the 'strange morals' that the bar possessed. The illustration of the barrister conforms to the standards discussed previously. The barrister is depicted in his gown, wig and collar, dressed for court. He is portrayed standing outside a court building, which is distinctly represented by its neo-gothic architecture. Representing the court in this way was a trend during the Victorian age, which acted as a symbol of the law's enduring power through its strong evolutionary history, distinct tradition and historic customs. To the bottom left of the image is a barrister's wig, on its stand, next to a wig box with the name, 'Mr Briefless', etched on the top. This again refers to the surplus of legal professionals, a fact that would not be lost on journalists due to the barrister's role in court reporting. The phrase 'briefless' has negative connotations, and is comparable to how Juvenal used the phrase *Causidici* or *Causidicus*, the negative connotation of advocate, to describe the lawyers of Rome.[147]

This also suggests that some journalists resented the influence of briefless barristers on the profession because they competed for the right to report. However, it is the attached poem that reveals a distinct criticism of the bar as betrayers of trust. The first verse of the poem alludes to the subject's association with criminals, which is similar to the comparison made by Peachum in John Gay's *The Beggar's Opera*.[148] This instantly questions the morals of the bar, associates the barrister with thieves and illustrates a lack of understanding of the nature of the barrister's role in the adversarial system of criminal law. It also

[147] SM Braund, *Juvenal Satires: Book I,* (CUP 1996) 34
[148] J Gay, *The Beggar's Opera,* (Unabridged, Dover Publications 1999) 2, Act. 1 Scene. 1

represents the barrister as dishonest through outlining, "he'd swear black was white on behalf of a thief".[149]

Furthermore, the illustration makes a direct reference to the etiquette and regulation of the bar during the period, by outlining the 'strange morals'[150] that lawyers possessed. This criticism can be read in a number of ways: it demonstrates a lack of understanding of the role of the legal professional in criminal defence and in the adversarial process; it is an exaggerated stereotype that does not, in any way, consider the concept of the equality of arms and the idea of neutral partisanship; and it fails to comprehend the importance placed on access to justice and the potential for miscarriages of justice, which is particularly important in an age of the death penalty and punishments of hard labour.

This illustration and the accompanying piece reveal a distinct criticism of the bar's system of etiquette and its internal regulatory mechanism. It is clear that such an illustration and its accompanying written piece can divide criticism along individual and collective lines, criticising individual barristers, whilst also criticising the profession as a whole. The questions raised around regulation in this piece clearly criticise the profession as a whole, questioning their collective morals and ethical obligations and are not just a criticism of individual barristers. Rules of etiquette were based on custom and were inherently unwritten. In an age of growing transparency and formalised, central regulation,[151] the bar was naturally at odds, with their internalised, unwritten methods of regulation. It is the lack of

[149] *Punch,* vol. 9 (1845)
[150] *Ibid*
[151] See generally, AJ Taylor, *Laissez-faire and State Intervention in Nineteenth Century Britain,* (Macmillan 1972)

public understanding that supported these themes, a subject that will be returned to in chapter five.

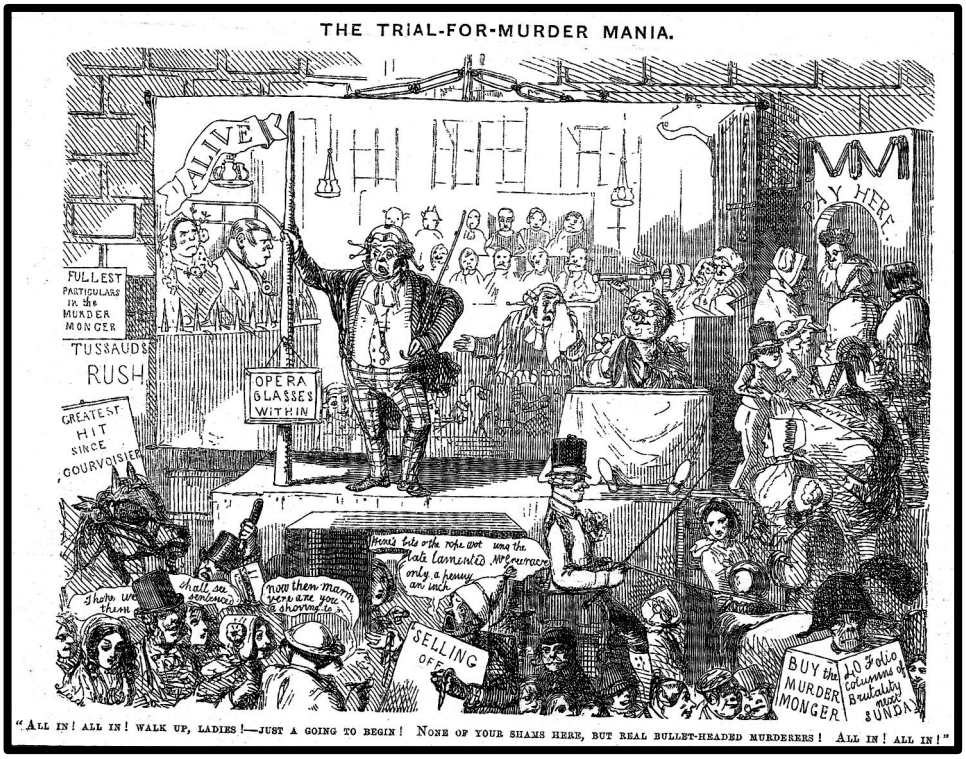


Illustration 32 - *A Trial for Murder Mania, Punch*, vol. 18 (1850) Almanack Pages [152]

Illustration 32 further demonstrates the barrister as unethical and intensifies themes of the courtroom as entertainment. This illustration depicts a barrister performing a one-man show, akin to a morality play, on the street or in a market square. Based on the defendants represented in the dock and its inclusion in the 1850 Almanack, it can be deduced that the scene represents the trial of Maria and Frederick Manning for the murder of Patrick O'Connor. The case had been heard in the Old Bailey on 25 October 1849 and had been widely reported in the press.[153] A 'stuffed' witness is sitting in the box as the barrister

[152] (c) The British Library, *Punch*, vol. 18 (1850) Almanack Pages

[153] The case was reported widely, with newspapers reporting the initial inquest upon the discovery of the body (for example, *The Standard,* 20 Aug 1849), the apprehension of the accused (for example, *The Morning Post,* 22 Aug 1849), their indictment in the police courts (for example, *Daily News,* 28 Aug 1849), their final committal (for example, *Lloyd's Weekly Newspaper,* 7 Oct

performs his oratory to the crowd, even taking up a very theatrical pose. He is represented wearing gown, wig and collar and, to align barrister and actor more closely, he is shown carrying a cane under his arm. This demonstrates the barrister plying his trade to the public and perpetuating the public fascination with murder trials. The illustration encourages the theme of the barrister as lacking morals and demonstrates the barrister glorifying in the murder and the subsequent misfortune of others for public entertainment. This again echoes the criticisms raised above centred on the barrister's role in criminal procedure and demonstrates a lack of public understanding. It also represents the barrister as profiting from the misfortune of others, again a theme that is recurrent and questions the ethical morals of the barrister in nineteenth century England.

This illustration also further evidences the close relationship with news media in the Victorian age. As mentioned earlier, newspaper sources during the period often drew comparisons between the court and the theatre as a source of entertainment. This source confirms this idea and represents the court as an actual theatre for the entertainment of the public, allowing the public to indulge their macabre interest in the legal process, crime, and punishment. The illustration even makes reference to opera glasses being available, an observation also made by *The Pall Mall Gazette*.[154] This clearly affirms the popularity of law and the reportage of the legal process amongst the public of nineteenth century England.

1849), their trial (*The Morning Chronicle,* 27 Oct 1849), Maria Manning's appeal (*The Examiner,* 10 Nov 1849) and their executions (*The Morning Chronicle,* 12 Nov 1849). Most aspects of this case were reported across the country, from Truro to Aberdeen, and Dublin to Edinburgh.

[154] *The Pall Mall Gazette,* 1 Jun 1891

The Manning case particularly emphasised this cultural relationship between the legal process, specifically criminal trials, and the public that played out in the press. The country was enthralled with the murder, trial and execution of the Manning's, and this widespread media coverage is satirised here in Punch's Almanack. This shows how central the trial and execution of the Manning's had been in cultural fabric of 1849, and by consequence the centrality of high-profile cases in the popular culture of the nineteenth century.

Furthermore, the illustration of crime in such a way illustrates the narrative nature of law and exemplifies how law paralleled with other cultural media during this period. The representation of the barrister acting on stage perpetuates the conception of the law as narrative and as a cultural medium within itself. It provides a clear example of how law lent itself to being a substantial subject of cultural sources due to these narrative characteristics. The discernment of the court as the stage is evidence of this and lawyers, as the principal characters of the legal process, became the stars.

Summary and Reflections

This chapter has looked at the visual representation of the bar in the print press of the nineteenth century. It specifically looked at how technological and press advancement created a visual cultural medium through which images of the law and the barrister were popularised, drawing upon the theoretical and historical context outlined in chapter one. Following this, the visual representation of the barrister in the mainstream press and the satirical press across the publications and cases outlined in the methodology of this work were examined and presented.

The visual provided another medium through which the public image of the barrister was transmitted to the public and, due to the mass characteristics of the press, arguably had a more substantial reach to the public. The popular and mass nature of the illustrated press when compared to other visual cultural media in the nineteenth century meant that it is likely that more of the public engaged with these images of the bar. As a source, this is an important indicator for the construction of the popular public image of the bar. The visual press would also have been an important addition in the developing public image of the profession as it allowed the public to visualise, beyond their minds eye, the collective and individual images of the barristers featured in the textual press, and various other signs and symbols that signified the profession.

The mainstream illustrated press echoed the representation of the barrister in the mainstream textual press by representing them in a factual and accurate manner, while also allowing the public to visualise important individuals to further their celebrity status, whether good or bad. This often-true representation also allowed the public to visualise the barrister's role in the court process and illustrate them in their professional environment. These visual depictions of such celebrities (and non-celebrity barristers also) placed the barrister at the centre of the drama of the courtroom and represented them as important characters in the narrative of the press. Finally, the continuous appearance of the barrister in their distinctive robes, wigs, and collars also signified these items as symbols of the bar. This in turn, became a metaphor for to represent the law, showing a distinct level of cultural penetration.

The depiction of the barrister in the satirical press was more critical due to the nature of the medium, but still had the ability to affirm or develop stereotypes

in the culture of nineteenth century England. The representation of the bar in the satirical press largely conforms to the themes observed by Galanter and other cultural scholars. Specifically, the barrister as a financially motivated predator, the barrister as a minion of Satan or a playmate of the devil, the barrister as a fomenter of strife and conflict, the barrister as an object of scorn, and the barrister as a betrayer of trust and as morally deficient. It is reassuring to see that this evidence fits with the Victorian Gap in Galanter's[155] work, and that these themes are congruent with those in wider legal culture.

Galanter's work raises some interesting reflections upon discussion in this thesis. Aren satirical images or jokes just funny? Galanter argues that the "telling, appreciating and publishing of jokes may reveal something about society"[156] and quotes Dundes stating that "no piece of folklore continues to be transmitted unless it means something."[157]

While these satirical images may have featured in the comedic press, they nevertheless will have been an important text for constructing the public image of the profession, and are an important for us to examine the stereotypes and images transmitted to the public in the context of the history of the representation of lawyers. However, within the context of this history of the lawyer in culture, it was the press that was the first truly mass text of culture in England, the first text that can be analysed in order to construct a public image of the bar.

[155] See generally, M Galanter, *Lowering the Bar: Lawyer Jokes and Legal Culture* (University of Wisconsin Press 2005)
[156] *Ibid,* 19
[157] *Ibid*

Chapter 4

The Representation of the Barrister's Educational System in the Nineteenth Century

Introduction

The aim of this chapter is to examine how the press of the nineteenth century represented the educational system of the bar to the public. Drawing on the work of other scholars, this chapter outlines the process by which the bar educated its pupils and will then ascertain how the printed press was instrumental in the popularisation of the educational affairs of the bar in the historical period of study. It establishes the ways in which legal affairs contributed to the construction of a mass popular culture. More specifically, it determines how the educational systems of the bar were represented in the press and explores the nature of the public image transmitted through the reporting of this. This chapter contributes to the wider aim of this thesis by exploring how the ongoing public discussions around the bar's educative systems contributed to the construction of a public image of the profession and developed widespread societal perceptions of the barrister during the Victorian epoch.

The Education of Barristers in Nineteenth Century England

Using the existing work of scholars, this section seeks to outline how the Inns of Court educated the bar during the Victorian period. It will explain how an individual barrister trained at the Inns of Court, while further exploring how the Inns controlled education during the nineteenth century. This section will also explore how the Inns of Court in the period attempted to reform education in a piecemeal and ad hoc manner, in response to public criticism via the press.

The legal education of barristers in early nineteenth century England had not developed or evolved since the preceding two centuries.[1] Sugarman has explained how:

> In terms of numbers of lawyers and their professional organisation and education, the legal profession of the 1880s looks strikingly similar to that of the 1680s, although a major decline in the numbers, professional organisation and education had occurred during the intervening period.[2]

The industrial revolution led to social improvement,[3] modernisation, and mass collective progression, yet legal education stood at odds with this changing ideology and advancement. It was clear that in early nineteenth century England, "there was no institution systematically studying or teaching the laws of England."[4] This was a serious issue, juxtaposed by the vast changes that were being felt in society and the increase in litigation encouraged by the industrial revolution.[5] It is arguable that the law was a medieval institution existing in a quickly evolving, modern world, and the legal education of barristers embodied this concern. This offers distinct parallels to contemporary discussions around the adequacy and suitability of legal education in the twenty-first century.[6]

In order to understand the education at the Inns of Court in early nineteenth century England, it is necessary to examine how the Inns had educated barristers in the preceding period. In the Early Modern period (ordinarily

1 P Polden, 'The Education of Lawyers' in W Cornish, J S Anderson, R Cocks, M Lobban, P Polden, and K Smith, *The Oxford History of the Laws of England: Volume XI: 1820–1914 English Legal System*, (Oxford University Press 2010) Part 4.5

2 D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics, 1750–1950' (1993) 11(2) *Law and History Review* 262

3 See generally, A Briggs, *The Age of Improvement,* (Longman 1965)

4 B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 63

5 B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 33

6 See generally A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 85

considered to be between 1450–1800[7]), the Inns of Court were the educational, administrative and regulatory centres of the barrister's profession, just as they were in the nineteenth century. They were responsible for the admission, management, accommodation, regulation and discipline of the profession and, most specifically for this chapter, the education of the bar.[8] The Inns of Court advanced the intellectual reflection and study of the common law during this period. O'Day has shown that the "emergence of the intellectual discipline of the Common Law took place within the context of the ancient Inns of Court in London".[9] However, it is clear from subsequent research that the academic study of law took a more procedural form centred on a rote learning approach to memorising legal precedent, rather than an organised, academically rigorous curriculum or a pursuit of intellectual vigour.

The study of law at the Inns of Court had traditionally been organised around a peer-learning approach, more akin to an apprenticeship model.[10] This also demonstrates the importance placed on socialisation and education "along the traditional lines of master-apprenticeship relationship: the more senior members taught the more junior".[11] This process meant that there was little or no formal education for barristers other than what they learnt through socialisation and reading. This education focused substantially on self-directed learning through reading legal texts and judgments, and practical, social education through dining and apprenticeship. O'Day has demonstrated in her work how "the Inns of Court and the courts themselves provided congenial environment for

[7] See generally, R O'Day, *The Professions in Early Modern England,* (Longman 2000)
[8] R O'Day, *The Professions in Early Modern England,* (Longman 2000) 114–176
[9] *Ibid,* 123
[10] *Ibid*, 125
[11] *Ibid*

young lawyers to learn their trade through practice as well as theory, through conversation and observation as well as books".[12]

This congenial environment was fostered through the traditions of the profession, and included a strict adherence to an established public order and system of social etiquette that was embedded as part of an individual's legal training. The benchers of the Inn called an individual to the bar, so a pupil's success truly depended on his ability to network more than his ability to understand law and legal procedure.[13] Barristers did not require intelligence, just a 'hunger' to practice demonstrated through dining at the Inns. However, this individualistic nature of legal education at the Inns of Court caused public concern during the nineteenth century.

The Inns' individualistic approach to learning and a distinct lack of formal education caused the judiciary to question the ability of the Inns to effectively instruct and train its members. O'Day highlights that "in the 15th century the judges ordered that learning exercises take place at the Inns,"[14] indicating the concerns already being raised around the suitability and rigour of legal education within the senior branch of the profession. It is evident from O'Day's work that the Inns of Court did incorporate some learning exercises into the educational programmes at the Inns; "The working of the Inns of Court was seriously disrupted by the English civil wars: there were no learning exercises from 1642 to 1647; moots but not readings were somewhat restored in the 1650s."[15] This demonstrates that the Inns began to offer individual readings (lectures) to

[12] *Ibid,* 133
[13] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 63
[14] R O'Day, *The Professions in Early Modern England,* (Longman 2000) 123
[15] *Ibid,* 137

students on the substantive law and encouraged the practice and perfection of professional skills through mooting.

Individual barristers did have discretion to engage with these various activities, and they were not always as effective or as successful as the Inns hoped. For example, "when an utter-barrister was chosen to read, he commonly chose as his subject for the reading a statute that had no contemporary relevance. Inner barristers were apprentices, seeking practical expertise, rather than students working in an academic milieu."[16] Moreover, the Inns of Court did not assess the learning of students, and continued to encourage pupils to think beyond mere book learning and engage further with legal discussion.

> By about the middle of the [16th] century it became necessary for students to be advised formally not to rely exclusively upon book learning, but also to participate in discussion – certainly a reversal of the situation prior to the invention and introduction of printing.[17]

This further demonstrates the emphasis placed on peer instruction alongside substantive legal education in the Early Modern period, which can be observed in to the nineteenth century. The interaction between senior and junior members of the bar exemplified the peer system of education, administration and regulation that was synonymous with the management of the bar in the nineteenth century.

However, this system of readings, moots and lectures did not become the commonplace or compulsory standard for legal education of the bar, and during the eighteenth century less emphasis was placed on learning exercises and instruction. These educational methods were not obsolete, but it is clear that the focus shifted back towards self-directed learning and social interaction as a means of education in the period.

[16] *Ibid,* 127
[17] *Ibid,* 133

> By 1700 the Inns of Court had no significant role in the education of men studying for the bar. Students now had to prepare themselves for the bar through independent study – the requirement was they eat so many dinners in the Inn prior to call.[18]

It is clear to see how the reputation of legal education became a concern for those outside the profession. The lack of compulsory assessment or examination meant that if a barrister could pay the annual fee to 'study' at the Inn and the subsequent call to the bar, the profession was relatively easy to enter.

> As long as a youth could summon up the £40 or so per annum to support him in an Inn, access to a career at the bar remained open to those of a relatively humble background, until the eighteenth century when it became expensive to take up the call itself.[19]

There was a distinct lack of compulsory, or even voluntary, examination to assess an individual's legal competency prior to his call. Instead, the power to authorise entry to the profession was placed into the hands of benchers.

> One of Inns would offer a course of lectures, but admission to the bar still required no participation in any educational activity and no examination. While technically the judges still retained the right to decide who could appear before them in the superior courts, in practice this right had been delegated to the four Inns.[20]

This demonstrates that priority was placed on the socialisation of barristers at the Inns of Court and legal training was less important. This meant that a barrister "picked up his legal knowledge as he went and the best could be said was that he was competent but not learned in the law".[21] This was clearly unsatisfactory, as individual lawyers were lacking a substantive knowledge of the law when they entered practise.

Victorian histories of the profession reveal how the education of the bar developed during the eighteenth and nineteenth century. In his work *Bench and*

[18] *Ibid,* 137
[19] *Ibid*, 141
[20] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 63
[21] R O'Day, *The Professions in Early Modern England,* (Longman 2000) 168

Bar, Serjeant Robinson stated that the educational systems of the bar developed, albeit slightly, during the nineteenth century. For example, it was made mandatory that each of the Inns of Court required a Certificate of Respectability to be submitted alongside a barrister's application to join their Inn. A potential student barrister "had to furnish himself with a Certificate of Respectability signed by two barristers, who vouched for his eligibility in that respect".[22] This demonstrates that the bar insisted on maintaining its honour and respectability. When this is looked at alongside the increase in the price of admission to the Inn in the eighteenth century, it can be argued that there were attempts by the bar to control entry to the profession and that the financial (and as a result the class) suitability of the applicant became relevant. This can be linked to the bars own public image, one of respectability and gentlemanliness,[23] something mirrored in the distinct rules of etiquette of the bar.

Further to this Certificate of Respectability, an examination was introduced during the period.[24] A barrister had to go through "the formality of what was technically called an examination, the crucial part of which occupied a minute and a half".[25] This examination was essentially very short, concise and superficial, including "one or two questions in Latin or on general literature",[26] which were put to the barrister in a "perfunctory style."[27] This method of assessing a pupil barrister was problematic because it disregarded a barrister's academic capabilities, and prioritised gentlemanly suitability and appropriateness. The implication of this potentially skewed priority was that pupils with money and

[22] Serjeant Robinson, *Bench and Bar,* (Hurst & Blackett 1891) 11
[23] D Lemmings, *Professors of the Law. Barristers and English Legal Culture in the Eighteenth Century,* (OUP 2000)
[24] Serjeant Robinson, *Bench and Bar,* (Hurst & Blackett 1891) 11
[25] *Ibid,* 11–12
[26] *Ibid,* 12
[27] *Ibid*

manners were recognised as having greater potential than those with academic rigour. The pupil barrister simply had to pay his fees to the Inn (in the early nineteenth century it was around £100[28]) and enter into a "stringent bond, with two sureties"[29] promising to obey the rules and regulations of the Inn, attend church each Sunday and pay any commons or dues when demanded.[30]

During the early nineteenth century, the actual training of the barrister was still not formal and "no future penance was required to qualify"[31] for a call to the bar other than undertaking the twelve terms required, which involved eating 36 dinners at the Inns of Court.[32] There were four terms in a year and a barrister could effectively be called to the bar in three years, although there was no requirement for those years to be completed consecutively.[33]

The duration of each term was ordinarily four weeks. In the middle of each term was a grand week, including a grand dinner, and the weeks before and after were called half-weeks.[34] In order to keep a term, a barrister must have partaken of three dinners, one in grand week and one in each half-week.[35] Once a barrister had completed twelve of these terms, he was eligible to be called to the bar. Upon examining a pupil barrister's training it is quite clear that during the first quarter of the nineteenth century, legal education was nothing more than a dining club[36] that required a certain display of assiduity in eating and drinking.[37]

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[28] *Ibid*
[29] Serjeant Robinson, *Bench and Bar,* (Hurst & Blackett 1891) 12
[30] *Ibid*
[31] *Ibid*
[32] *Ibid*, 13
[33] *Ibid*
[34] *Ibid*
[35] *Ibid*
[36] WW Pue, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review*, 135, 144
[37] Serjeant Robinson, *Bench and Bar,* (Hurst & Blackett 1891) 13

Thus, following the advancement to legal education in the eighteenth century, it is clear that the bar in the early nineteenth century made "no co-ordinated attempt to revive the educational work of the Inns of Court".[38] Robinson questions the adequacy of such a system of education, highlighting that "keeping a term then, was not so harrowing a curriculum as many are found in these educational times".[39] The bar stood at odds to the formal systems of education emerging in other spheres of society throughout the nineteenth century; such as medical doctors.[40] Inn education in the first quarter of the nineteenth century was insufficient and this chapter will argue the necessity of reforming legal education in the subsequent decades.

The role of university education in the instruction of the bar in the nineteenth century was not influential in the study of law, but was a factor in the education of its members.[41] The elitist nature of the bar, dictated by the high subscription cost to the individual Inns and the extravagant fees for subsidisation whilst keeping term, meant the majority of those studying and practising at the bar had received a formal education prior to their entrance to the Inn. Due to the middle-class background of the bar's membership, "a handful of elite schools and Oxbridge colleges were the breeding grounds of a substantial proportion of the Victorian Bar."[42] Many of those who had attended university had studied classical subjects or traditional legal subjects, such as civil law (based on Roman law) or

[38] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 63
[39] Serjeant Robinson, *Bench and Bar,* (Hurst & Blackett 1891) 13
[40] M J Peterson, *The Medical Profession in Mid-Victorian London,* (University of California Press 1978) 34-36 and AJ Youngson, *The Scientific Revolution in Victorian Medicine,* (Holmes and Meier 1979) 19
[41] See generally, D Sugarman, 'Making Respected Gentlemen out of Law Professors. A Commentary on Albert Venn Dicey, Can English Law Be Taught at the Universities (1883)'. I Löhr, M Middell, H Siegrist, (eds), *Kultur und Beruf in Europa* (Franz Steiner Verlag 2012) 161-168
[42] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics 1750 –1950' (1993) 11(2) *Law and History Review* 257, 267

ecclesiastical law. There was a move towards the study and teaching of English Common Law during the middle of the eighteenth century with the establishment of the Vinerian Chair at Oxford in 1758, occupied by William Blackstone.[43]

Yet, this did not change the landscape of English legal education as first envisaged. Boon and Levin stated that by the 1840s there were only two English law chairs at Oxford, one of which did not offer courses, and one at Cambridge.[44] More chairs emerged in the newer universities, such as University College London and King's College London, and due to their location and immediacy to the Inns of Court they proved slightly more successful.[45]

Through the remainder of the nineteenth century, other universities (including civic universities in the midlands and the north of England) instituted chairs in law and from 1852 a specific legal degree began to be offered by Oxford (Bachelor of Civil Laws; or BCL), an LLB at Cambridge from 1855, and a BCL by Durham in 1858.[46] However, these courses did not prove popular with potential barristers or even the Inns of Court who saw their own education sufficient, and the move towards the academic education of law did not intersect with the realities of professional practice. Abel-Smith and Stevens acknowledge that "the failure of the Inns to provide legal education was paralleled by a similar failure in the universities".[47] It is argued that a lack of interaction between the profession and the universities meant that in early nineteenth century England there was a

[43] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79
[44] D Sugarman, 'Making Respected Gentlemen out of Law Professors. A Commentary on Albert Venn Dicey, Can English Law Be Taught at the Universities (1883)'. I Löhr, M Middell, H Siegrist, (eds), *Kultur und Beruf in Europa* (Franz Steiner Verlag 2012) 162
[45] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79
[46] *Ibid*
[47] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 63

clear disjunction between the desire for substantive legal education and the actual education provided by the superior branch of the legal profession.

There was substantial discussion and debate surrounding the need for educational reform in the mid-nineteenth century due to the ambiguous relationship between the Inns of Court and the universities. The two systems existed in parallel, but never in co-operation, with the route to professional practice being controlled by the legal societies. This allowed the professional bodies to monopolise legal services through strict control over entry to their profession, their proscriptive educational methods for foundational legal training, and their regulation of the provision of legal services.[48]

The evolutionary nature of the Common Law had seen a long history of legal institutions and the profession vying for jurisdiction and superiority, and this was no different in the nineteenth century. It is argued that as society was adapting to the changes brought about by industrialisation and modernisation, traditional institutions like the Inns of Court tried to maintain their control and monopoly over legal education. This was problematic for the advancement of the legal profession because it fell into a lacuna between a growth in the academic study of law and the long-established traditions of experiential learning and professional training. Both focused on different core proficiencies, and when combined, they addressed the major shortcomings of the other's educative processes. However, scholars have suggested that prior to the 1840s "the Inns had ceased to take legal education seriously and…the universities were unwilling

[48] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics 1750 –1950' (1993) 11(2) *Law and History Review* 257, 292

to take over the responsibility for it."[49] It is evident that the profession placed substantial attention upon their own internal practice-focused education and it is this inability to collaborate that has cast shadows upon current legal education in England and Wales.

In order to further demonstrate the insufficiency of legal education in the nineteenth century it is useful to compare the approach taken in American universities. By the nineteenth century the United States of America had established a substantial legal tradition, based around the Common Law, and had subsequently seen the evolution of a distinct university-based system of legal education. The same can be said for the continental legal traditions; the law schools of Europe had been the central training establishments for lawyers in the civil law systems for centuries. These jurisdictions naturally stood at odds with legal education in the English legal profession.

> The lack in legal education in England was a marked contrast to the position on the Continent and in the United States. In the latter, the War of Independence cut off the supply of English-trained lawyers and gave the rapidly expanding universities an opportunity to develop law teaching. In 1777 Ezra Stiles, the President of Yale, urged the teaching of law in American universities and the establishment and filling of chairs rapidly followed.[50]

In the continental civil law systems, university legal education had a long-established history and a tradition of substantive edictal instruction, relating back to the teaching of Roman law and Canon law (based around the Catholic tradition) since early in the twelfth century. The USA on the other hand, had gained independence from the British crown and had sought to establish its own system, noticeably developed from the Common Law tradition of England. Following the War of Independence, the universities of America sought to

[49] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 26
[50] *Ibid,* 25–26

educate their own lawyers in order to develop their own body of jurisprudence and administer their own legal system, and a more rigorous system of academic legal education emerged.

It was this institution of university legal education, as a prerequisite to practice, which was not seen in England and Wales until the late twentieth century.[51] It seems plausible that the upheaval wrought by the War of Independence and the subsequent desire by the founding fathers to establish a self-supporting, effective and just legal system, led to the establishment of this educated legal tradition. Thus, is it argued that in 1840, the education of barristers and solicitors in England and Wales lacked the rigour, organisation and assessment of the continental and American systems, and to the contemporary commentator it would have seemed vastly inadequate. Yet, Sugarman outlines how the experience of reading law in English and American universities was not dissimilar.[52]

This was exemplified by the continued and sustained investigation, discussion and evaluation of the bar's educational systems during the mid-nineteenth century. The press scrutinised legal education and central government examined and subsequently reported on the educational systems of the bar by Select Committee in 1846[53] and by Royal Commission in 1854.[54] Both reports were highly critical of the existing system of legal education at the Inns of Court. This condemnation of legal education may have caused the public to look upon

[51] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79, 86

[52] D Sugarman, 'A Special Relationship? American Influences on English Legal Education, c.1875-1965' (2011) 18(1-2) *International Journal of the Legal Profession* 9

[53] 'Select Committee on Legal Education', *HCPP* (1846) (686) X.1 p. lvi, lix-lx

[54] 'Report of the Commissioners Appointed to Enquire into the Arrangements in the Inns of Court and Inns of Chancery for Promoting the Study of Law and Jurisprudence', *HCPP* (1855) (1988) 17

the profession with distrust and resentment. Cocks has stressed that, following the Parliamentary investigations into the educative practices of the profession, "if the bar was to defend itself in the court of public opinion, it was going to have difficulty"[55] and that "education was essential if the bar's position was to be improved".[56] It is argued is a direct link between the public criticisms of the profession's educational structures and the negative public image of the bar that emerged in the nineteenth century, and it is this relationship that that will be examined later in this chapter.

Throughout the remainder of the nineteenth century, the criticisms levelled at the bar's educational practices via the press and Parliament, forced the Inns of Court to respond. The bar responded with recognition that something needed to be done but "barristers were not, however, overwhelmingly enthusiastic about calls for more structured legal education".[57] Educational reform was slow and limited in scope.[58] This response by the bar and Cocks' observations above are an indication of the 'power' of the press in leading and reflecting public opinion. There was a period of stagnation between the publication of the Royal Commission[59] and the implementation of any educative reforms, so that the public began to view the bar as highly conservative in their traditions.[60]

The bar did establish a Council of Legal Education in 1852 and subsequently established some teaching and lecturing. The Inns initially appointed five readers to deliver three sets of lectures per year but these posts

[55] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 69
[56] *Ibid*, 70
[57] WW Pue, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review* 135, 145
[58] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 100
[59] 'Report of the Commissioners' *HCPP* (1855) (1988)
[60] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 120

were not full-time appointments.[61] The Council for Legal Education eventually offered a voluntary examination in the early 1860s and, following demands in the press,[62] a compulsory examination in 1872.[63] This compulsory test tried to follow the model of the civil service entrance examination[64] and sought to demonstrate a barrister's suitability to practise, not necessarily test his legal knowledge. These reforms to legal education were not substantive reforms to address the insufficient training at the Inns of Court, but sought to prove to the public that the profession actively controlled entrance to its ranks.

Although the academic study of law began to develop during the second half of the nineteenth century, it did not have any real effect on the education of barristers until late in the twentieth century when both branches of the profession became a graduate profession.[65] Barristers who read for the new degrees in English Common Law at university did have a better understanding of the law, but still had to dine and spend four terms (rather than the ordinary twelve[66]) at the Inn before completing their compulsory examination, it can be assumed that this had a somewhat deincentivising effect on taking a law degree as a route to a practice. Even as late as 1884 and 1904 the Inns of Court continued to refuse proposals from the newly established University of London to create a co-operative law school, rejecting proposals even after the University offered control

[61] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79, 86
[62] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 115
[63] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79, 84
[64] C Stebbings, 'Officialism': Law, Bureaucracy and Ideology in Later Victorian England' in A Lewis and M Lobban (eds), *Law and History: Current Legal Issues,* vol.6 (OUP 2003) 317
[65] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79, 87
[66] *Ibid*

of the curriculum to the Inns themselves.[67] This refusal to work alongside the universities and a substantial resistance to incorporate formal legal education as a preliminary prerequisite of a barrister's training, or at the very least a component of the bar's educational programmes, exemplifies the continuing struggle in the ideology of the bar during the nineteenth century.

The bar wanted to maintain its monopoly on legal education and practice by clinging to its traditions and customs. The upheaval of the industrial revolution had caused dissonance between the dominant ideological forces of individualism and collectivism, which was encouraged by the widespread influence of public opinion, voiced via the press, on central politics and traditional institutions. The ongoing fight to maintain the status quo and control educative authority also embodied the bar's constant struggle during the period to maintain its monopoly on the entrance, education, administration, and regulation of the profession. This will be returned to more substantially in chapter five.

The Inns of Court also possessed an unswerving desire for the bar to remain the superior legal profession, therefore maintaining the prestige that came with such a status. Throughout the period, the discussion around the adequacy of legal education and the dialogue around university-based education continually returned to demand more substantial changes to the profession. The rapid pace at which the solicitor's branch reviewed, reformed, and undertook changes to their educational methods encouraged this. The example that was set by the solicitor's branch encouraged those outside the profession to consider alternatives to the two-branch system. This was particularly pertinent when *The Times* spent the first quarter of the century exalting single-branch legal systems,

[67] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 172–177

as in the USA and on the continent.[68] Naturally, discussions fell around reforms to the whole profession and, as Pue has discussed:

> any general discussion of legal education raised twin spectres of an enhanced status (and competitive position) of solicitors and even of a fused legal profession. One contemporary commentator expressed concerns about improving the education of solicitors on the ground that it tended towards either fusion of the professions or inter-branch tensions.[69]

It is evident that the bar viewed itself as the superior branch of the profession and did not wish to create a single-branch profession by way of fusion with the solicitor's branch. Furthermore, it demonstrates how the bar was deeply concerned about the improving education of solicitors as a point of comparison to their own sluggish and stagnated response. It also evidences the importance the bar placed on its professional monopoly. This provides some explanation as to why the bar was so resistant to the role that universities could play in the future of legal education. The bar saw the university law schools as a challenge to their monopoly in the drive for education.

Yet the discussions around the legal profession's educational structures did encourage the bar to examine its own conceptions of legal practice and professionalism and consider the impact of the bar's administration on its public image.

> Bodies like the Inns of Court, The Law Society, the provincial law societies, and the new university law schools explained the profession to itself and constructed (and reconstructed) its sense of identity. They also helped to constitute 'legal professionalism', that is, what distinguished 'proper' from 'illegitimate' legal services, whereby certain individuals became defined as a threat to society – 'sham

[68] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 115
[69] WW Pue, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review*, 135, 145

> lawyers', arbitrators, 'ambulance chasers', 'radical lawyers', and legal aid committees.[70]

The widespread popularisation of the bar in case reports, disciplinary issues and the discussion around educational reform caused the public to consider the bar and its professional reputation. The bar, in turn, considered its own conceptions of professionalism and its public image in the face of such scrutiny. The Inns of Court were incredibly unhappy and disconcerted by the prevailing criticism that the bar received during this period[71] as, for the first time in its history, the bar was the focus of a substantial cultural medium and at the forefront of public consciousness, which will now be discussed.

The Popularisation of the Barrister's Educational Systems in the Nineteenth Century Press

This section demonstrates how the representation of the bar's educational systems became a popular subject of press coverage during the Victorian period. This section also argues that the extensive and thorough press representation of the barrister in court caused a public interest in the wider issues and affairs of the bar, including the education of these legal professionals that in turn confirmed or altered public perceptions of the bar. This section elaborates on earlier discussions, highlighting how the exposure of educational affairs of the bar positioned the barrister as a principal character in the 'popular culture' of the press. It also explores how the press of the nineteenth century propagated themes and criticisms of legal education, which have perpetuated the

[70] D Sugarman, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics 1750 –1950 (1993) 11(2) *Law and History Review* 257, 292
[71] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 92

misunderstandings and criticisms of lawyers that are common in contemporaneous cultural texts.

It was argued earlier in this thesis that the extensive press reporting of the legal process created a pervasive public interest in the affairs of the bar and the conduct of individual barristers. It was this comprehensive examination and popularisation through the press that ensured the reporting of ongoing debates around the educational structures of the profession. The substantial interest in the bar was also perpetuated by the shift in public consciousness away from conceptions of individualism towards central, collectivist reform and widespread social improvement.[72] The public were interested in the profession and the affairs of the bar; therefore, the press also examined wider vocational issues within the profession and encouraged society to focus their attention on the bar. Through critical examination of the previously discussed failings of the bar and its educational processes, the press encouraged society to analyse its efficiency and appropriateness, as well as the aptitude and competency of its members.

> The bar was under attack from without at this time. Law reform of all sorts discomforted barristers, and they had been subjected to the not inconsiderable indignity of inquiries by Parliamentary committees on both the structure of legal education and the governance and role of the Inns of Court[73]

This particularly vehement investigation by Parliament was instigated, in part, by the ideological shift towards centralisation encouraged by state intervention, to be explored in more detail in chapter five. Central government, the press, and the public viewed the bar as an out-dated institution, based around medieval traditions and paternalistic customs, which largely stood at odds with the

[72] A Briggs, *The Age of Improvement,* (Longman 1965)
[73] WW Pue, 'Moral Panic at the English Bar: Paternal vs. Commercial Ideologies of Legal Practice in the 1860s', (1990) 15(1) *Law and Social Inquiry* 49, 57

modernisation and development occurring across the rest of the social landscape.[74] Parliamentarians such as Lord Brougham raised questions around the adequacy of the legal system and the efficiency of the legal profession following the vast industrialisation and modernisation of the preceding century and very explicitly highlighted the shortcomings of a medieval system operating in a modern world.[75] Dickens and other nineteenth century producers of popular culture echoed these denigrations. In *Bleak House*,[76] published in 1853, "Dickens laid blame for all inadequacies, inefficiencies and absurdities of English law indiscriminately at the feet of legal practitioners."[77]

Yet, as with many of the societal, institutional and state-led reforms of the period, it was the press that was the most substantial medium for demanding reform, highlighting the shortcomings and hypocrisies within the legal profession and constructing a public image of the bar. This was encouraged by an already piqued interest in the public mind based around the legal affairs of the profession, which was a consequence of the ongoing and extensive reporting of the legal process.

The criticism that the legal system was receiving in Parliament and via other cultural texts encouraged the press to report the issues of reform and the inadequacies of the bar's educational systems, further perpetuating public interest in a symbiotic interrelationship, each reinforcing the other. Cocks, who states that the bar "was trapped in a situation in which legislative reform, professional management and public indignation continually reinforced each

[74] See generally, A Briggs, *The Age of Improvement,* (Longman 1965)
[75] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 55
[76] C Dickens, *Bleak House,* (reprint, Penguin Classics 2011)
[77] WW Pue, 'Moral Panic at the English Bar: Paternal vs. Commercial Ideologies of Legal Practice in the 1860s' (1990) 15(1) *Law and Social Inquiry,* 49, 57

other", has highlighted this process of reinforcement.[78] This was no different to the interdependent relationship between cultural texts, public image, and Parliamentary examination during the period; each drew upon the other in incessant collaboration, both reflecting social attitudes and leading public opinion.[79]

The shift towards the reluctant acceptance[80] of centralised governmental reform, and the constant spectre of state intervention was the wider social context in which the bar's educational structures were examined within the nineteenth century press. The unwritten, unregulated, and informal nature of legal education stood at odds with a changing public attitude towards formalised regulation. Cocks emphasises this issue in *Foundations of the Modern Bar.*[81] He states that the public indignation towards barrister's informal regulation "must have infuriated the great majority of barristers. They knew they had rules. They knew they were usually obeyed, but they had no effective way of responding to public criticism, which wanted codes and tribunals."[82] Although this argument relates to regulation, it provides clear evidence for this shifting public attitude through the period towards formalised structures. Education of the bar was viewed in the same way.

Throughout the nineteenth century there was a clear move towards formalising regulation and increasing the rigour of training and education across many spheres of society. This is evidenced by the clear support for continental methods of legal education, formal training for the bar, and the demand for

[78] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 93
[79] MR Asimow, ''Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533, 549–553
[80] C Stebbings, *Legal Foundations of Tribunals in Nineteenth-Century England,* (CUP 2006) 75
[81] See generally, R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983)
[82] *Ibid,* 129

compulsory tests that featured in *The Times* during this period.[83] It is contended that the press was obviously a catalyst for change because as a mass media, it was the most substantial source of commentary and criticism of inefficient and out-dated social institutions and governmental mechanisms. The press was also critical of the bar's educational structures and, in a time of great upheaval and a growing move towards formalised structures and centralised regulation, the bar necessarily fell within the view of the press.

Although the education of the bar may not have captured the attention of the public in the same way as the reporting of court proceedings or the publication of visual images of the bar, it did resonate with the public around the effective administration of justice. Justice was on the public agenda as a result to the extensive exposure that the legal process received from the press that was outlined earlier. Cocks, citing Napier,[84] outlines how the public viewed legal education and explained that: "The character of the learned professions was a matter of great public importance, and it was also the case that the extent and quality of professional education should correspond with general progress and enlightenment of the age."[85]

Judges were also concerned about this. Abel-Smith and Stevens both outline that had judges been able to interfere with the internal regulations of the Inns, then the judges might have initiated a revival in education.[86] They also suggest that there was "an obvious interest in seeing that those who appeared

[83] *Ibid,* 115
[84] J Napier QC, MP
[85] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 94
[86] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967) 63

before them were equipped with knowledge of the law."[87] It is argued that the proficiency and appropriateness of legal education was of interest to the public and the judiciary, who were concerned with the efficient administration of justice. As a consequence, the press would commonly report on these themes and this popularised the educational affairs of the bar and positioned discussion and debate around the efficiency and competence of the profession.

The Representation of the Barrister's Educational Systems in the Nineteenth Century Press

This section will ascertain the representation of the bar's educational affairs in the press during the period and examine how the barrister was depicted through newspapers and magazines, including national and regional publications. This section explores the representation of these legal professionals in widespread discussions around the bar's educational affairs reported in the press. It is this comprehensive reporting of professional education that assisted in constructing popular opinion of the bar in nineteenth century England. Discussions and commentary on the bar's educational systems are interrogated and the themes and motifs through which the bar was depicted are explored. Furthermore, wider representations of the bar's ethics are considered in relation to such educational questions.

During the nineteenth century, the question of legal education was continually examined in the press and the subsequent depiction continued to construct the public image of the profession. The mainstream press, including

[87] *Ibid*

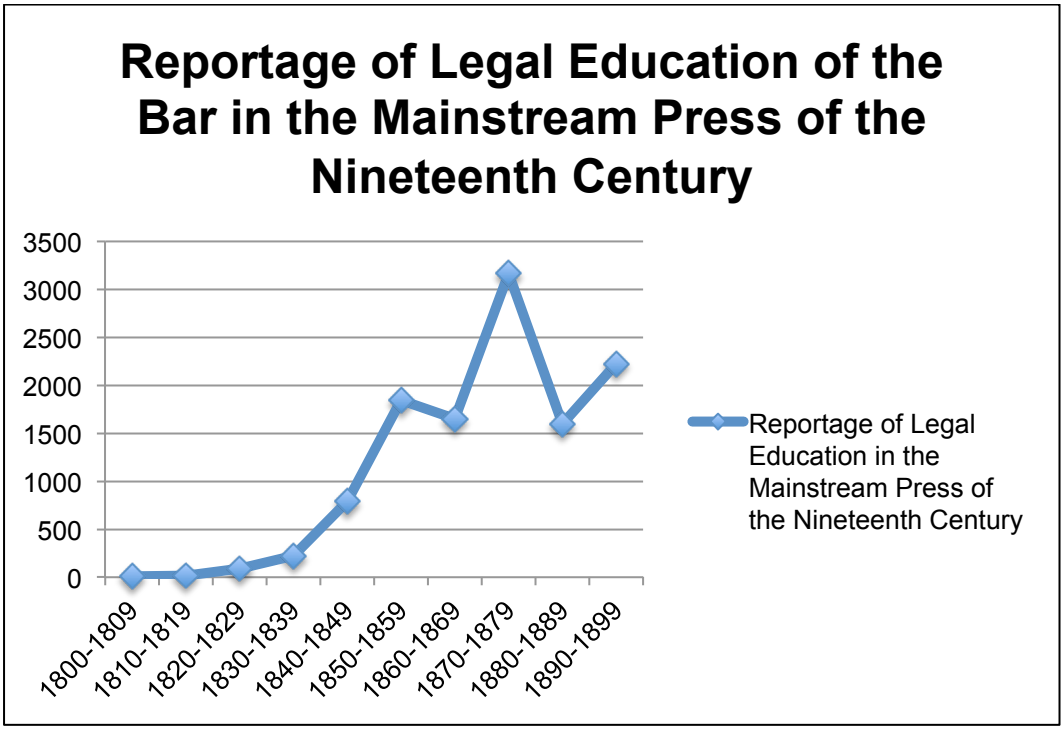
newspapers,[88] news periodicals,[89] and the satirical press[90] all examined the issue of legal education. The pervasive nature of this reporting naturally transmitted a public image of the profession to a large proportion of the population as discussed in the preceding chapters. The popularised nature of legal affairs and the profession ensured that the press reported the debates around legal education and educational reform. Yet, unlike the other areas that were reported in the press of the period (as discussed the preceding chapters), the press representation of these educational issues did not examine and deconstruct the character of individual barristers, but of the profession as a whole. Consequently, the insufficient and inefficient education systems propagated the themes and motifs explored earlier in this thesis and, subsequently, provided a distinct contribution to the foundation of themes with which the legal profession was represented in the nineteenth century press.

By way of quantitative analysis, the mainstream press of the nineteenth century reported issues with the legal education of the bar in its columns over 16,000 times. This included reportage in the mainstream national and regional press and mainstream periodicals, such as John Bull and the Pall Mall Gazette. This was also spread across the period but increased throughout the nineteenth century. The first real increase in coverage occurs in the 1840s, which coincides with first Select Committee on Legal Education,[91] and peaking in the 1870s, concurrent with the introduction of the bar's first compulsory examinations for

[88] For example, *The Morning Post,* 3 Nov 1829; *The Morning Chronicle,* 26 Mar 1850; *Lloyd's Weekly Newspaper,* 7 Jul 1850; *Daily News,* 18 Oct 1851. Legal education was also examined in the provincial press of the period, *Liverpool Mercury,* 14 Oct 1851,
[89] For example, *The English Gentlemen,* 3 May 1845; *John Bull,* 14 Feb 1852,
[90] For example, *The Satirist,* 9 Jun 1833; *Punch,* 11 Sept 1847
[91] "Select Committee on Legal Education" HCPP (1846) (686) X.1

admission. The changing frequency of press reportage of issues around the bar's legal education can be observed in the table below.

Table 2 - Reportage of Legal Education of the Bar in the Mainstream Press of the Nineteenth Century



The focus on legal education emerged in the early nineteenth century, when those within the profession and members of the public began to consider the situation of legal education, or more specifically, the lack of substantive, formalised education prior to individuals being called to the bar.[92] Lord Brougham was one such advocate of the reform of legal education and of law reform more generally.[93] However, there were numerous other individuals who proposed reforms to legal education during the first quarter of the nineteenth century. In a letter to *The English Gentleman,* public dissatisfaction with the educational systems of the bar is exemplified.[94] This letter is particularly critical of the bar and

[92] *The Pall Mall Gazette*, 13 Dec 1873, *The Morning Post*, 13 Dec 1873, *The Bristol Mercury*, 13 Dec 1873 and *The Huddersfield Chronicle and West Yorkshire Advertiser*, 13 Dec 1873
[93] See generally W Glover, *Lord Brougham's Law Reforms, etc.'* (J Ridgway & Sons 1834), 28–29
[94] *The English Gentlemen,* 3 May 1845

describes the practices at the Inns of Court as "shameful"[95] and asks whether the "study of law is a mere pastime?"[96]. This letter was submitted anonymously to *The English Gentlemen* and it can be argued that this anonymity has allowed the author to be less delicate in his criticism. The letter was prompted by a discussion in *The Spectator* about the number of barristers who made an indifferent figure at the bar, and the letter's author draws blame at the Inn's utter disregard to legal education. This predates the Select Committee into Legal Education and demonstrates a dialogue around the inefficacies of the Inns of Court and professions. This letter is full of scathing criticism of the bar in the matter of legal education and this was echoed in numerous other press publications, particularly the satirical press

The Satirist took the opportunity to ridicule the profession and highlight the shortcomings in the education of individual barristers in their regular features outlining 'black sheep' and 'white sheep' of the profession.[97] *Punch* was stark in its criticism of the profession and, in publishing a brief report of the findings of the Select Committee of Legal Education, it stated: "There is no legal education in England."[98] Although *Punch* was renowned for its criticism being without malice,[99] this is a blatant and blunt criticism of the state of legal education in 1840s England, and when the history of the bar is considered, it was without malice as it was a factual statement.

GH Mansel, a former legal practitioner was also an advocate for reform to legal education. In 1829, he delivered an early exploration of the issues around

[95] *Ibid*
[96] *Ibid*
[97] *The Satirist,* 9 Jun 1833, 21 Jul 1833, 6 Oct 1833
[98] *Punch,* 11 Sep 1847
[99] RD Altick, *Punch: The Lively Youth of a British Institution 1841–1851,* (Ohio State University Press 1997) 10

this subject in a lecture to the profession at Furnival's Inn, a dissolved Inn of Chancery. The subject of this lecture was the suitability of legal education and its place in the society of the nineteenth century. The press reported this lecture and explored the issue of legal education. The findings were stark and deeply disturbing. Mansel was clear in his assertion, there is a "present defective system of legal education"[100] and an "absolute necessity to remedy it."[101] *The Morning Post* agreed with his assertions and suggested that even if his lecture did not accomplish all that he wished, the very effort was worthy of appreciation and approbation.[102] *The Morning Post's* agreement with Mansel's statements served two distinct purposes; it reflected opinion already held in society around the lack of formal legal education, whilst also leading public opinion on the subject of the inadequacy of the system at the time.

Another lecture delivered by GH Mansel, accompanied by Professor Amos, was also reported in *The Spectator.*[103] Within this lecture, Amos stressed the present deficiencies in the laws of England and, subsequently, legal education was once again subject to criticism by the press. Amos directly attacked the lack of substantive education and outlined how the student can develop misapprehension of the law when left to study with a single mind.[104] This critical perspective indicates the continuing conflict between the academic university law schools and the Inns of Court. The public characteristics of these lectures disseminated criticism to the profession and, via the press, to the public

[100] *The Morning Post,* 3 Nov 1829
[101] *Ibid*
[102] *Ibid*
[103] *The Spectator,* 7 Nov 1829
[104] *Ibid*

at large. This arguably encouraged the public consideration of legal education, its appropriateness and suitability to the modern age.

The action of individual commentators such as Mansel, and the examination by legal academics in the established universities, encouraged the public, Parliament and even the profession itself to consider the suitability of legal education in the period. However, the number of lawyers in Parliament[105] meant that the profession's education was likely both defended and criticised by Parliamentarians. Throughout the nineteenth century, the House of Commons had a distinct legal lobby.[106] The number of barristers in Parliament varied throughout the period,[107] as did their legal experience. The Inns of Court boasted of many alumni that had entered politics and even achieved high office. These barristers in Parliament were always going to defend the independence and status quo of the profession, actively resisting intervention or external pressure to modify their current practices. The legal lobby would always make any state intervention into the affairs of the bar difficult.

However, the disjunction between legal practitioners and those who had merely dined at the Inns was severe. There were some barristers that had practised at the bar, received respect and acclaim by the public, the press, and their peers and had subsequently entered politics on the back of this reputation. Sir Edward Clarke (chapter two and three) is an example of this type of Parliamentary barrister. However, there were also those who dined at the Inns of Court and then, either through their personal background and/or own ambition, entered politics and became career politicians. Lord Brougham is one such

[105] D Duman, *The English and Colonial Bars in the Nineteenth Century,* (Croom Helm 1983) 170
[106] *Ibid*
[107] *Ibid,* 184

example, as he was called to the bar but had little success in practice and instead turned to journalism and a political career. These two examples of the characteristics of the lawyer in Parliament demonstrate how legal education and law reform became a key battleground between the forces of collectivist intervention and individualistic conservatism. While Duman's numbers of barristers in Parliament may show a distinct percentage of a legal lobby, and many of these would have defended the bar due to their practitioner status, like Sir Edward Clarke. Those no practicing barristers, like Lord Brougham, would have been happy to speak against the Inns of Court and their internal, discreet processes.

Lord Brougham was a keen advocate for law reform and a critic of the current state of the law. Individuals such as Brougham prompted and encouraged reform during this period, most famously in his six-hour speech to the house on the state of the law and the legal professions in February 1828.[108] It was during this time, and perhaps prompted by this speech, that Parliament began to shift their focus onto legal education. Lord Brougham even questions aspects of legal learning in England[109] and describes the poor state of public opinion in the legal system as a whole.[110] It could be argued that the press had become a factor Following the refusal to call Daniel Whittle Harvey to the bar, Parliament was forced to examine the profession and its administration.[111] This, combined with ongoing criticism in the press, meant that Parliament had a duty to critically

[108] *Parl. Deb.,* vol. XVIII, cc. 127–258, 7 Feb 1828 (HC)
[109] *Ibid,* 196
[110] *Ibid,* 135, 167, 169-170
[111] "Documents relating to Application of Mr DW Harvey, MP, to be called to Bar and his Rejection by Benchers of Inner Temple" *HCPP* (1834) (349) XLVIII.1

assess the adequacies of the Inns of Court. Initially this was done on a superficial level.[112]

In the 1840s, Parliament began to undertake a more substantial examination of the law and the legal profession, and throughout the decade government examined numerous functions of the Inns of Court, including the Select Committee on Legal Education.[113] Naturally, the press reported the findings of this Select Committee and, following the damning findings of its report; individuals interrogated the adequacy of legal education in Parliament.[114] The report highlighted how there was insufficient common law legal education in the established universities, and the Inns of Court called people to the bar who were only able to prove a limited amount of legal knowledge.[115] The report goes further and refers to the Inns of Court as neglecting their duties in legal education.[116] The report also describes the system as a being in a defective state of intellectual and moral legal education.[117] The press reported exactly this and explained how the existing system of legal education in Ireland, and at home, was found to be deeply dissatisfactory.[118] The Rt Hon Mr Wyse is quoted as addressing the house

[112] "Second Report from Select Committee of the Inns of Court" *HCPP* (1834) (555) XVIII.331
[113] "Select Committee on Legal Education" HCPP (1846) (686) X.1
[114] *Daily News*, 8 Apr 1846, *The Morning Post*, 8 Apr 1846, *The Standard*, 8 Apr 1846, *Berrow's Worcester Journal*, 9 Apr 1846, *The Standard*, 9 Apr 1846, *The Belfast News-Letter*, 10 Apr 1846, *Freeman's Journal and Daily Commercial Advertiser*, 10 Apr 1846, *Glasgow Herald*, 10 Apr 1846, *The Hull Packet and East Riding Times*, 10 Apr 1846, *Liverpool Mercury,* 10 Apr 1846, *The Manchester Times and Gazette*, 10 Apr 1846, *The Bristol Mercury*, 11 Apr 1846, *The Examiner,* 11 Apr 1846, *The Ipswich Journal*, 11 Apr 1846, *The Leeds Mercury*, 11 Apr 1846, *The Leicester Chronicle: or, Commercial and Agricultural Advertiser* , 11 Apr 1846, *The Manchester Times and Gazette*, 11 Apr 1846, *The Northern Star and National Trades' Journal*, 11 Apr 1846, *The Sheffield & Rotherham Independent*, 11 Apr 1846, *Caledonian Mercury,* 13 Apr 1846
[115] "Select Committee on Legal Education" HCPP (1846) (686) X.1, xi
[116] *Ibid*, xvii
[117] *Ibid*, xxxvii
[118] *Daily News*, 8 Apr 1846, *The Morning Post*, 8 Apr 1846, *The Standard*, 8 Apr 1846, *Berrow's Worcester Journal*, 9 Apr 1846, *The Standard*, 9 Apr 1846, *The Belfast News-Letter*, 10 Apr 1846, *Freeman's Journal and Daily Commercial Advertiser*, 10 Apr 1846, *Glasgow Herald*, 10 Apr 1846, *The Hull Packet and East Riding Times*, 10 Apr 1846, *Liverpool Mercury,* 10 Apr 1846, *The Manchester Times and Gazette*, 10 Apr 1846, *The Bristol Mercury*, 11 Apr 1846, *The Examiner,* 11 Apr 1846, *The Ipswich Journal*, 11 Apr 1846, *The Leeds Mercury*, 11 Apr 1846, *The*

and quoting "some of the first men in the profession had admitted the grievous loss of time they had sustained in the earlier portion of their career by the absence of an organised and adequate system of legal education."[119] These statements were recorded across the national and mainstream press, as was convention of the press in the nineteenth century.[120]

Within due course, the Inner Temple, Gray's Inn and Lincoln's Inn had all agreed to offer lecture courses to students and offer a voluntary examination, the passage of which was not required to be called to the bar. Instead a certificate of attendance for two of the course of lectures was required in order to be called.[121] This was merely a resolution to implement these measures at a later date, not a firm commitment to any substantial education. Within a short period of time, the press began to criticise the profession for their compromised, undedicated approach to legal education. *The Globe* commented, "We are glad that the three societies have passed the resolutions that are above set forth. But we think that they have not done enough…a certificate of having attended lectures proves nothing more than that the party has sat for a certain time in the lecture room; what instruction he has derived from sitting there has still to be proven."[122] *The*

Leicester Chronicle: or, Commercial and Agricultural Advertiser , 11 Apr 1846, *The Manchester Times and Gazette*, 11 Apr 1846, *The Northern Star and National Trades' Journal*, 11 Apr 1846, *The Sheffield & Rotherham Independent*, 11 Apr 1846, *Caledonian Mercury,* 13 Apr 1846

[119] *Daily News*, 8 Apr 1846

[120] *Daily News*, 8 Apr 1846, *The Morning Post*, 8 Apr 1846, *The Standard*, 8 Apr 1846, *Berrow's Worcester Journal*, 9 Apr 1846, *The Standard*, 9 Apr 1846, *The Belfast News-Letter*, 10 Apr 1846, *Freeman's Journal and Daily Commercial Advertiser*, 10 Apr 1846, *Glasgow Herald*, 10 Apr 1846, *The Hull Packet and East Riding Times*, 10 Apr 1846, *Liverpool Mercury,* 10 Apr 1846, *The Manchester Times and Gazette*, 10 Apr 1846, *The Bristol Mercury*, 11 Apr 1846, *The Examiner,* 11 Apr 1846, *The Ipswich Journal*, 11 Apr 1846, *The Leeds Mercury*, 11 Apr 1846, *The Leicester Chronicle: or, Commercial and Agricultural Advertiser* , 11 Apr 1846, *The Manchester Times and Gazette*, 11 Apr 1846, *The Northern Star and National Trades' Journal*, 11 Apr 1846, *The Sheffield & Rotherham Independent*, 11 Apr 1846, *Caledonian Mercury,* 13 Apr 1846

[121] See for example, *The Morning Post,* 31 Aug 1846, *Yorkshire Gazette,* 5 Sept 1846, and *John Bull,* 7 Sept 1846. This resolution was printed in many regional newspapers verbatim from the Inn's press release.

[122] *The Globe,* 16 Sept 1846

Evening Mail was even more scathing, commenting "it is almost impossible to suggest a more meagre scheme of legal education than that which has been put forward…there seems to be literally nothing gained by the resolutions agreed to by the three Inns for the improvement of legal education."[123] They continue by outlining how important reform to legal education is to the public by stating, "public interest requires some guarantee of qualification, especially with reference to the bar."[124] John Bull continues this attack on the Inns in the following decade stating that

> not only do these learned bodies do next to nothing for legal education themselves, but as every attempt to supply their deficiencies is an implied and very forcible censure of their scandalous remissness and inertness, their conduct and example operate as strong discouragement to organise legal education in any other quarter.[125]

It is clear that even with this strong criticism put forward by the press, and the clearly pertinent public interest, the bar were slow in their evolution and introduction of these lectures.

Mr George Hamilton MP also questioned this delay and the prolonged deficiency in legal education, directly challenging the Attorney General in the house.[126] Hamilton highlights the findings of the 1846 Select Committee,[127] describing "the defective state of legal education,"[128] questioning "whether any steps had been taken by Her Majesty's Government, or by the inns of court, or the King's inns, Dublin, to give effect to any of the recommendations with respect to the improvement of legal education contained in the report of the Select

[123] *The Evening Mail,* 2 Sept 1846
[124] *Ibid*
[125] *John Bull,* 20 Sept 1851
[126] *Parl. Deb.,* vol. C, cc. 109–110, 4 Jul 1848 (HC)
[127] "Select Committee on Legal Education" *HCPP* (1846) (686) X.1
[128] *Parl. Deb.,* vol. C, cc. 109–110, 4 Jul 1848 (HC)

Committee, presented 25th August, 1846?"[129] It is the response of the Attorney-General, Sir John Jarvis that demonstrates how Parliament was a clear site of conflict between the instigators of legal reform and the profession during this period. He responded by outlining how:

> Government had no authority to interfere in the matter. It rested in a great degree with the Inns of Court; but many of the recommendations of the Committee would require to be effected by legislation. Before or during the inquiry before the Committee, some of the Inns of Court here had established lectureships at a considerable expense, and there had been conferences of the different inns with the view of arranging some uniform system of education and admission to the bar.[130]

This stark statement demonstrates the attitudes of the Inns towards external pressure and the encouragement by Parliament towards legal reform. The well-documented nature of Parliamentary proceedings in the press of the nineteenth century ensured that all questions and debates were reported verbatim in the national[131] and regional press.[132] The criticism being levelled at the bar's educational structures via Parliamentary investigation and Parliamentary questions transmitted an image of legal inefficiency, both in its education and its ability to react to public pressure. In a society that was obsessed with improvement,[133] the statement by the Attorney General, on behalf of the Inns of Court, represented the bar clinging to their independence, as fomenters of strife and conflict asserting their independence at the expense of legal services and justice. It is clear to see how the stagnation to which Cocks alludes[134] was

[129] *Ibid* – This was obviously reported extensively in the press due to press conventions of Parliamentary reporting. See *The Morning Post*, 5 Jul 1848, *The Standard*, 5 Jul 1848, *Caledonian Mercury*, 6 Jul 1848, *The Belfast News-Letter*, 7 Jul 1848, *Liverpool Mercury etc*, 7 Jul 1848, *Lloyd's Weekly London Newspaper*, 9 Jul 1848 and *Freeman's Journal and Daily Commercial Advertiser*, 6 Jul 1848
[130] *Ibid*
[131] For quote, see *The Standard,* 5 Jul 1848; *The Times,* 5 Jul 1848
[132] For quote, see *The Belfast News-Letter,* 7 Jul 1848; *The Glasgow Herald,* 7 Jul 1848
[133] A Briggs, *The Age of Improvement,* (Longman 1965)
[134] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 120

transmitted to the public through press reporting, encouraging a public image of an undereducated and ill-equipped profession.

The press also spoke of this inefficiency and stagnation in the Inns of Court even going so far as to questioning their place in society. In *The Morning Chronicle* they asked, "For what good purpose then should the Inns of Court continue to exist any longer?"[135] This article also highlighted the continued public interest in the legal profession stating, "the abuses which have gradually grown up in the Inns of Court are attributable rather to love of ease and habitual remissness than to any more objectionable motives. But these are not the times when public trusts can be neglected or perverted with impunity."[136] The press encouraged this public interest in the lack of formal legal education and, where possible, the press took opportunities to remind the public of "the utter absence of any system of legal education whatever, which exists in this country."[137] *The Morning Chronicle* also outlined the importance of the barrister receiving an adequate education due to their important role in society and their oft elevation to Parliamentary office.

This concept of the lawyer as uneducated, even as a hapless bungler, was echoed in the satirical press of the period. *Punch* ran a regular feature based around Mr Briefless, their caricature of a lawyer represented as a briefless barrister constantly seeking work.[138] Mr Briefless is also a bumbling character and lacking in logic and common sense.[139] This grew out of the perceived lack of education in the profession that was encouraged by the continuous broadcasting

[135] *The Morning Chronicle,* 10 May 1849
[136] *Ibid*
[137] *The Morning Chronicle,* 16 Nov 1849
[138] *Punch,* vol. 1 1842, vol. 9 1845, vol. 10 1846*,* vol. 27 1854
[139] *Punch,* vol. 6 1844, 212

of the questions raised around legal intelligence in the verbatim press reporting. In a regular feature, 'Ballads of the Briefless', the *Punch* staff often focused on the briefless barrister's "very poor wit" [140] and his confusion upon reading 'Instr'ons' (short for Instructions) at the top of a brief.[141] These allusions were a satire, not of the high number of barristers, but instead of their often dim wits, lack of legal training and his incapability to perform the simplest legal tasks. That is not to say that Mr Briefless' career did not develop in order to satirise other parts of the legal system, but his lack of legal training and inability to perform his professional duties endured through time.[142] As discussed earlier, for satire to resonate with its readership there needs to be a vein of truth to the criticism and a relationship between the image portrayed and contemporary criticism. The lack of education being reported widely in the press gave the *Punch* staff a cultural zeitgeist in which to interconnect their satire with public or popular feeling.

The aforementioned debate in the House of Commons that discussed legal education was certainly not the only discussion to be reported in the press. In 1852, the discussion was again brought before the House in which Mr Ewart "begged to ask the Honourable and learned Attorney General whether any further proceedings had taken place, on the part of the Inns of Court, in promotion of the question of legal education?"[143] This clearly supports Cocks' assertion of this perceived stagnation[144] and again transmitted to the public the delays still being encountered at the Inns of Court in the development of a more formalised system of legal education. The Attorney General is reported as saying that "he was much

[140] *Punch,* vol. 4, 1843, 31
[141] *Ibid,* 106
[142] *Punch,* Vol. 14, 1847, 14
[143] *Parl. Deb.,* vol. CXX, cc. 1111–1112, 26 Apr 1852 (HC)
[144] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 120

obliged to the hon. Gentleman for giving him an opportunity of stating, for the information of the public."[145] This attests to the importance that contemporary politicians placed upon the reporting of debates in Parliament. Politicians wanted to be sure that their statements regarding important policies and information was conveyed to the public. However, the Attorney General's response did little to demonstrate the Inns of Court as proactively addressing the issue of legal education. After four years, the Attorney General could only offer a proposed plan by the Inns of Court to incorporate a series of professorships and the lectures a student would need to attend in order to be certified by voluntary examination before their call to the bar.[146] After four years of consultation and planning by the benchers from each of the four Inns of Court, they had only managed to formulate a proposed plan to address the widespread criticism and alleviate public concern.

The Examiner referred to this procrastination as a "great evil"[147] and described the increasing public feeling and how every year civilised society "calls more loudly for that philosophical knowledge of principles of law which alone can govern those relations in society."[148] *The Examiner* also called for all further proposed plans by the Inns "to be made public with as little delay as may be."[149] This urgency demonstrates how important reformation to legal education was to Victorian society, but also how tiresome with such delays and stagnation had become to the public in legal matters.

[145] *Parl. Deb.,* vol. CXX, cc. 1111–1112, 26 Apr 1852 (HC)
[146] *Ibid* - This was obviously reported extensively in the press due to press conventions of Parliamentary reporting. See *The Morning Post*, 26 Apr 1852, *Liverpool Mercury etc*, 27 April 1852, *The Morning Chronicle*, 27 Apr 1852, *The Standard*, 27 Apr 1852, *The Aberdeen Journal*, 28 Apr 1852, *The Blackburn Standard*, 28 Apr 1852, *Freeman's Journal and Daily Commercial Advertiser*, 28 Apr 1852, *Berrow's Worcester Journal*, 29 April 1852
[147] *The Examiner,* 1 May 1852
[148] *Ibid*
[149] *Ibid*

This concept of the lawyers taking overly long delays, consuming time and wasting money is a theme and motif that was clearly echoed in works of nineteenth century fiction. Dickens's *Bleak House*[150] is a highly critical work that clearly satirises and commentates on the inefficiencies of the legal system, the ineptitudes of lawyers, and the inadequacies of a medieval system of legal administration in modern society. This stagnation and sluggish response by the Inns of Court to criticism from Parliament, the press, and the public did not alleviate the criticism that was being levelled at the profession.[151] It furthered public belief that the bar was the source of all disorder within the legal process. The delays and hesitancy of the bar to relinquish their monopoly over legal education and to adapt in the face of substantial criticism confirmed much of what was perceived by society, that the legal profession acted as a barrier to justice rather than as facilitator or guardian of justice.

Lord Brougham echoed this exact sentiment in his address to the Society for Promoting the Amendment of the Law.[152] This society was an important lobby group during the period, and their proceedings and minutes from meetings were reported widely in the press.[153] The society examined all aspects of law reform and, inevitably, legal education was examined and advocated by this group. In this speech, the press reported that Lord Brougham forwarded the public and political agenda around reforming legal education for the betterment of society. The title of Lord Brougham's speech, and the press article, was the 'Importance

[150] C Dickens, *Bleak House,* (reprint, Penguin Classics 2011)
[151] WW Pue, 'Moral Panic at the English Bar: Paternal vs. Commercial Ideologies of Legal Practice in the 1860s' (1990) 15(1) *Law and Social Inquiry,* 49, 57
[152] *Lloyd's Weekly Newspaper,* 7 Jul 1850
[153] *Lloyd's Weekly Newspaper,* 7 Jul 1850

of Legal Knowledge to the Community'.[154] Lord Brougham was reported to outline that it was "the general opinion of intelligent men of the present time, that legal education should be placed on a more satisfactory footing."[155] This demonstrates the pervasive nature of this opinion amongst the public and specifically highlights that it is a general opinion in society evidencing the widespread nature of this criticism of the bar's educational systems. This dissatisfaction was also being highlighted in the mainstream press of the late 1840s and 1850s. An editorial letter in *The Leeds Intelligencer and Yorkshire General Advertiser* criticises the state of legal education for barristers. It states "barristers of five, seven or ten years standing may be raised to a multitude of important posts without any legal qualification whatsoever. They themselves cannot help seeing that the profession is rapidly declining in public estimation."[156]

Cocks and Pue have both stated that the public reputation of the profession during this period was poor[157] and references such as this by contemporary politicians, especially those so closely related to the law, and the press further this point and validate this opinion. The remainder of this article presents an argument that the advocates of legal reform placed vital importance on legal education. Lord Brougham clearly advocated a more sufficient system of legal education, for the legal profession and the public generally, and was clearly concerned with the correct and efficient administration of justice. He outlined how the public should be better acquainted with legal knowledge in order to undertake their public duties (including acting as a jury member) in a more satisfactory

[154] *Ibid*
[155] *Ibid*
[156] *The Leeds Intelligencer and Yorkshire General Advertiser*, 12 Dec 1846
[157] For example, R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 92; and WW Pue, 'Moral Panic at the English Bar: Paternal vs. Commercial Ideologies of Legal Practice in the 1860s' (1990) 15(1) *Law and Social Inquiry,* 49, 57

manner. However, he subsequently returns to the "young men at the bar".[158] He is reported as describing, in "considerable length", [159] the importance of establishing lectures at the Inns of Court for the improvement of the community generally in legal matters.[160] Two inferences can be made from this statement by Lord Brougham, and without a full verbatim script of the discussion that was undertaken in considerable length, these inferences must be examined equally.

The first inference that can be made from this statement is that it was the responsibility of the bar to address issues of the deficiency of community legal knowledge. It is argued that the above statement demonstrates that Lord Brougham envisaged the bar as facilitators of justice, as guardians of the law and as the vessel through which the public could gain access to the law. This is a powerful statement. The internalised nature of the bar's educational processes meant that the bar had an effective monopoly on legal education and, even with a gradually emerging university system of legal education, it was the bar that was perceived as the real authority on legal matters, acting as gatekeeper to legal knowledge and access to justice. Although this is an admiring representation of the profession, it is also a statement critical of their monopoly over legal knowledge and their lack of community engagement.

The second inference that can be drawn from Lord Brougham's statement is that the quality of justice would be improved should the bar enact the changes recommended by the Select Committee[161] and the proposals developed by the

[158] *Lloyd's Weekly Newspaper,* 7 Jul 1850
[159] *Ibid*
[160] *Ibid*
[161] "Select Committee on Legal Education" *HCPP* (1846) (686) X.1

Inns of Court.[162] Thus, in order to improve the quality of justice in Victorian England, and benefit the community more generally, barristers should have a requisite amount of formal training. This again echoes sentiments found in other cultural texts during the period that depicted the legal professional as a barrier to justice. This is a significant criticism of the profession and perpetuates the link between the profession and the effective administration of justice during the nineteenth century. The concept of the lawyer as a barrier to justice and an obstacle to an efficient legal process underpins much of the criticism of the bar during the period and Lord Brougham's statement demonstrates how politicians and lobby groups perceived the inefficiency of the legal profession in the facilitation of the administration of justice due to their lack of sufficient legal education. Cocks also outlines how, during the second half of the nineteenth century, the bar began to construct notions of justice.[163] Yet, they also had to consider conceptions around the efficient administration of justice in respect to the perceived public image of the profession.

It was not just the House of Commons that were concerned about the education of barristers in England. The House of Lords also discussed this issue during this period of debate. This was an expected consequence due to the legal purview of some members of the House of Lords in their capacity as the highest judges in the Empire. Lord Lyndhurst is reported questioning the Lord Chief Justice, Lord Campbell, as to whether he was satisfied with the system of education being incorporated at the Inns.[164] Lord Campbell responded by outlining that:

[162] *Parl. Deb.,* vol. CXX, cc. 1111–1112, 26 Apr 1852 (HC)
[163] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 100
[164] *Parl. Deb.,* vol. CXXII, cc. 1277–1278, 25 Jun 1852 (HL)

> he had the honour to be visitor of the Inns of Court, and he rejoiced that the Benchers had at last been taking a step in the right direction. He had been labouring for the last twenty years to induce them to do so. He had always thought that the state of legal education in this country was disgracefully bad.[165]

This statement by the highest (Common Law) judge in England further perpetuates this representation of the profession as ill educated and potentially immoral. This statement featured in the mainstream press, as the press convention of reporting verbatim Parliamentary debates also extended to the debates in the House of Lords.[166] This substantial criticism by the highest judges in England continued to perpetuate the representation of the bar's educational structures as poor and insubstantial in the modern age. The criticism by the Lord Chief Justice reveals how all strata of nineteenth century society, including the judiciary, politicians, the public and the press, condemned the bar. This evidences how omnipresent criticisms of the bar were during this period. However, these debates also reveal the propositions put forward by the bar and had done for a long period of time. Lord Campbell stated his opinion that he hoped the bar would incorporate their initial proposals and yet, "still go on, that there might be the same opportunity of acquiring legal education in this country as in the other civilised countries of the world".[167] This further demonstrates how continental and American models of legal education were held in high esteem during the period.

The debate in the House of Lords also shows that the measures being proposed by the Inns (namely professorships, lecture series and a voluntary exam) were insufficient. Lord Lyndhurst expressed his desire for the voluntary

[165] *Ibid*
[166] *The Morning Post,* 28 Jun 1852; *The Standard,* 28 Jun 1852; *The Times,* 28 Jun 1852
[167] *Parl. Deb.,* vol. CXXII, cc. 1277–1278, 25 Jun 1852 (HL)

exam to be made compulsory, to which Lord Campbell agreed.[168] This provides evidence of the insufficient nature of the proposed reforms and the general desire for formal examinations. This was also an opinion held by the public as a result of prolonged public discussions in the press; the public desired and demanded compulsory tests.[169] This again criticised the bar's response to the investigation and upheld the belief that the bar was conservative,[170] self-interested, and egotistical.

This allowed themes and motifs of the barrister as morally deficient, as a fomenter of strife and conflict and as the focus of disrespect to be further developed in the press and in the public mind. The representation of the bar's educational reforms and the insufficient response by the profession in the press continued to disseminate this understanding of the bar, and the public continued to view the bar as putting their own concerns for preserving their educational monopoly above the efficient administration of justice. This encouraged the public, the press and society to question the morals of the bar. The resistance by the bar to the recommendation of the Select Committee[171] as well as the statements by the House of Commons[172] and the House of Lords,[173] outlining that it was not the responsibility of the government or the judiciary to interfere in the affairs of the bar, affirms the theme of the bar as agitators and instigators of unnecessary conflict. This also shows attempts to maintain their insufficient educational regime against a substantial public pressure. This whole discussion, debate and examination of the bar's educational systems further positioned the

[168] *Ibid*
[169] R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983) 115
[170] *Ibid,* 120
[171] "Select Committee on Legal Education" *HCPP* (1846) (686) X.1
[172] *Parl. Deb.,* vol. CXX, cc. 1111–1112, 26 Apr 1852 (HC)
[173] *Parl. Deb.,* vol. CXXII, cc. 1277–1278, 25 Jun 1852 (HL)

barrister as disliked and distrusted in the public consciousness of the nineteenth century.[174]

The press also compared the bar's educational processes to those of the other three 'liberal' professions and found it to be deficient. *The Standard* considered the education at the Inns of Court alongside the church and the medical doctors,[175] and this publication questioned the suitability of the benchers to exercise their discretion to enter the profession. When compared to the church and the Royal College of Physicians, the bar lacked the pre-requisite of an accredited university degree, and the substantive knowledge needed to carry out their role.[176] This comparison demonstrates how even in the first part of the nineteenth century, the bar was at odds with other 'liberal' professional bodies, and the advantages of having a university degree in the law is "invisible."[177]

Thus, it is argued that the continual criticism that the bar received in the press of the period, based on the bar's inadequate educational systems and their slow self-interested response to governmental investigation, constructed a public image of the barrister as a subject for public disdain. There are many themes surrounding the barrister, such as the barrister as ethically dubious and the barrister as a troublemaker and fomenter of conflict, but the concept of the barrister as an object of scorn was specifically promoted and propagated. The press criticism of the profession developed the public's indignation towards the practices of the Inns of Court and the role of individual barristers.

[174] *Northampton Mercury,* 22 July 1871,
[175] *The Standard*, 5 Mar 1834
[176] *Ibid*
[177] *Ibid*

However, the criticism of the bar's education in the press did act as a catalyst for some reform and change. The incorporation of the voluntary exams in the early 1860s,[178] followed by the introduction of compulsory examinations in 1872,[179] was encouraged by the continual external pressure levelled at the bar during the period. The subject of legal education and the adequacies of the proposals forwarded by the Inns of Court and the Council of Legal Education,[180] were continually criticised by Parliament[181] and the press.[182] This continued the theme of the barrister as an object of derision and continued to encourage the public in their belief that legal education was inadequate and therefore, so was the barrister. As the profession attempted to dispel this belief, the press referred to the Council of Legal Education granting studentships of 500 guineas to students to assist in their study and examination at the Inns of Court. An example of this was in the *Daily News,* which reported that the Council of Legal Education had asserted their desire for voluntary public examination and the establishment of studentships to assist students.[183]

The press also reported that the profession had granted awards to a number of students, demonstrating how these legal reforms were being incorporated and undertaken.[184] This showed the profession as compassionate in

[178] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79, 84
[179] AH Manchester, *A Modern Legal History of England and Wales,* (Butterworths 1980) 58
[180] The Council of Legal Education (CLE) was established in 1852 as an overarching body created to debate, design and improve legal education for barristers at the Inns of Court. The CLE was formed of eight members, two from each of the four Inns of Court. It was the first public example of the Inns of Court working together to create an overarching administrative body
[181] See *Parl. Deb.,* vol. CXXXI, cc. 147–169, 1 Mar 1854 (HC); *Parl. Deb.,* vol. CXLI, cc. 2030, 5 May 1856 (HC); *Parl. Deb.,* vol. CXLIV, cc. 454, 10 Feb 1857 (HC); *Parl. Deb.,* vol. CXLV, cc. 833–834, 25 May 1857 (HC); *Parl. Deb.,* vol. CCXII, cc. 47–77, 21 Jun 1872 (HC)
[182] *The Morning Post,* 2 Mar 1854; *The Examiner,* 11 Jul 1857; *The Standard,* 3 Nov 1858; *The Lancaster Gazette, and General Advertiser for Lancashire, Westmorland, Yorkshire, etc.,* 19 Mar 1859; *Daily News,* 13 Jul 1871; *Daily News,* 26 Jul 1871
[183] *Daily News,* 31 Dec 1853
[184] *Liverpool Mercury,* 14 Jan 1875; *The Sheffield & Rotherham Independent,* 15 Jan 1875

their encouragement of legal study. The press also reported the rules that the Council of Legal Education issued for public exams, demonstrating how the profession was trying to address the negative, internalised image they had.[185] This is a particularly distinct finding and indicates a proactive move to make the regulation and education of the profession more transparent.

The progress made by the Inns of Court during the 1870s was reportedly widely in the press. This included the foundation of the Legal Education Association and the elevation of Lord Selborne as its inaugural president.[186] The 1870s were a period of great advancement in legal education and the only period of real development and response by the Inns of Court. The press reported various advancements by the Inns of Court and the Legal Education Association, commentating and reporting its often-difficult task of reforming legal education not just in the superior branch, but it the attorney's branch also. For example, *The Pall Mall Gazette* reported in great detail the objections raised by the profession at the creation of a "General School of Law"[187] for the education of barristers and Attorneys, particularly as they believed it to be "the only sound and rational policy"[188] for the education of lawyers in England. This refusal to undertake a wholesale solution and formalise legal education in line with the other liberal professions would only have furthered public distrust in the legal profession and the power of the Inns of Court. The length of time they took to introduce these measures did little to alleviate public concerns and demonstrated instead the piecemeal nature of legal reform to education at the bar. In an age of widespread

[185] *Daily News,* 31 Dec 1853; *The Morning Chronicle,* 22 Mar 1856
[186] See, for example, *London Evening Standard,* 9 Jul 1874, *South Wales Daily News,* 9 Jul 1874 and *The Pall Mall Gazette,* 9 Jul 1874
[187] *The Pall Mall Gazette,* 15 Dec 1874
[188] *Ibid*

governmental reform and sweeping social, economic and public improvement, these minor attempts at educational development were merely viewed as slow, haphazard and sporadic responses to public and political criticism.

The continual press representation of the bar's educational system and proposals to reform legal education called into question the ability of the bar to effectively educate its members. The widespread and well-documented discussion and debates, combined with a significant Parliamentary investigation, examined the way in which the bar was qualified to be considered superior branch of the legal profession in England and Wales and their role in the administration of justice and guardians of justice.

Cocks,[189] Pue,[190] Abel-Smith and Stevens,[191] and Boon and Webb[192] have all highlighted that the public of the period mistrusted and criticised the lack of formal education. It is argued here that this public mistrust and disdain towards the bar was due to press criticisms, as the themes they perpetuated disseminated the view that the education of the bar was unsubstantial and ineffectual. The press represented the barrister as a hapless, bungling and ill educated, which followed Parliamentary and public questions raised around the profession's lack of education. The resistance by the bar to adapt in response to public pressure, and their subsequent stagnated response, represented the barrister as ethically questionable, more concerned with maintaining their monopoly over administration and education than the effective and efficient administration of justice. Furthermore, these themes encouraged conceptions of

[189] See generally, R Cocks, *Foundations of the Modern Bar*, (Sweet and Maxwell 1983)
[190] WW Pue, 'Moral Panic at the English Bar: Paternal vs. Commercial Ideologies of Legal Practice in the 1860s', (1990) 15(1) *Law and Social Inquiry* 49
[191] B Abel-Smith and R Stevens, *Lawyers and the Courts*, (Heinemann 1967)
[192] A Boon and J Webb, 'Legal Education and Training in England and Wales: Back to the Future?' (2008) 58(1) *Journal of Legal Education* 79

the barrister as a barrier to justice and as a villain against the public good. Finally, the continuous conflict between Parliament, the press and the bar did little to dispel the public understanding of the barrister as a propagator of conflict.

Summary and Reflections

This chapter has looked at the textual representation of discussions of the bar's education in the print press of the nineteenth century. It specifically looked at how the bar's educative systems changed in the two centuries preceding the nineteenth century and the systems that were in place during the period of research. It also presented, to some extent, comparison to American and Continental jurisdictions. It also looked at how the bar's educative systems were popularised within the context of reportage of the bar in the press. Following this, the representation of discussions around the bar's educational systems in the mainstream press and the satirical press were examined and presented.

Much of the discussion around the education of barristers arose from discussions in Parliament, reports of Select Committees and Royal Commissions, the work of special interest groups, and editorial letters. This Parliamentary business was reported verbatim in the national and regional press. The same was true for the press publication and discussion of Select Committee and Royal Commission reports. Therefore, the public bore witness to the substantial criticisms levelled at the bar by politicians; representing them as lacking in learning, inefficient in their responses to criticism, and out-dated. These representations were supplemented by calls for action from individual organisations that sought improvement in the profession and through public letters in editorials.

The sources represented education in the Inns of Court as being sub-standard within the context of more education and training in the nineteenth century, and even more so when compared to other professions and jurisdictions. This is particularly true when this is placed in the social context of the nineteenth century, as the bar stood at odds to the rest of society; it is discussed in chapter one, that there was great educational reform across society in the nineteenth century and a drive to improve education. The bar's conservative attitude would have been in conflict with this. All of these representations questioned the ability of the bar to 'learned', and would have perpetuated stereotypes and themes that had been transmitted through the press reporting of the bar in their other professional activities.

As a final reflection, the press reporting of educational issues was led by a desire to reflect Parliamentary concern and to feed the growing press interest in legal affairs. As outlined in chapters two and three, the press extensively represented the bar in their legal practice and, at times, highlighted the virtues and deficiencies of the profession and individual barristers. This developed a public interest in the bar and its affairs, which in turn encouraged the press to report and explore Parliamentary and public concern with subjects such as the bar's education. It could also be that press reportage of the bar encouraged other areas of society to interrogate and review usually unseen or little-considered areas of the bar's practices. The nineteenth century was a period of mass improvement and reformation, the press was still a powerful engine that drove public interest in the profession and had the ability to lead and reflect public opinion of various aspects of the professions existence.

Chapter 5

The Representation of the Barrister's Regulatory Affairs in the Nineteenth Century

Introduction

The principal aim of this chapter is to examine how the press of the nineteenth century represented the regulatory affairs of the bar to the public, in particular, disciplinary hearings and the disbarring of barristers. This chapter outlines the process by which the bar regulated its members and ascertains how the printed press was instrumental in the popularisation of the bar's regulatory affairs during this period. More specifically, it determines how disciplinary cases and disbarrings were represented by the press and explores the nature of the public image transmitted through the reporting of this professional regulatory procedure. This chapter contributes to the wider aim of the thesis by exploring how the representation of disciplinary cases at the Inns of Court contributed to the construction of a public image of the profession and developed widespread societal perceptions of the barrister during the period of study.

The Regulation of Barristers in Nineteenth Century England

This section will ascertain how the Inns of Court regulated the bar during the Victorian period, a matter that is currently under researched in contemporary scholarship. It seeks to explain how the benchers of the Inns of Court regulated the profession and explores the supremacy of the Inns during the nineteenth century. This section also considers the core themes of misconduct and disciplinaries brought before the disciplinary committees at each of the Inns.

The regulation of the bar in the nineteenth century was undertaken individually by each of the four Inns of Court, but their governance was very similar to one another. Each of the Inns had a body of senior barristers, known as the benchers, who sat as the administrative and organisational leaders of their

Inn. They were responsible for the efficient management and regulation of the profession, or at least of the professional within their Inn. The benchers were the absolute authority in the Inns and they acted as the highest regulatory body for barristers in the nineteenth century. It was compulsory for a barrister, no matter his position and experience, to be a member of an Inn. Therefore, a barrister was bound to abide by the regulation and authority of his Inn. The benchers had complete control over entry, education, and administration of the profession. More importantly in this context, they were responsible for controlling and scrutinising the conduct of barristers and disciplining individual professionals when appropriate.

Each of the Inns had different formats of the same structure for dealing with administrative, financial, managerial and, most importantly, disciplinary issues. The committee of benchers at Gray's Inn were referred to as the Pension Committee of Gray's Inn,[1] whose meetings were recorded in the Pension Minutes.[2] The Pension Committee administered all the Inns' affairs, including disciplinary cases. It also, on occasion, delegated individual disciplinary cases to a special committee to deal with.

The Inner Temple was governed by the Inn Parliament of Inner Temple,[3] which had sub-committees that dealt with various tasks related to administration. One such committee dealt with disciplinary issues. The proceedings of the Inner

[1] RJ Fletcher, *The Pension Book of Gray's Inn (Records of the Honourable Society) 1569–1800,* (Chiswick Press 1910)
[2] ibid; see also GIA, DIS/1/1–3 (1848–70), DIS/2/1–19 (1812–1900)
[3] Inner Temple Archives Website <http://www.innertemple.org.uk/index.php?option=com_content&view=article&id=130&itemid=128> accessed 8 April 2014; see ITA, ITA-DIS/1

Temple Parliament and the various sub-committees were recorded officially in the Bench Table Orders, as reports from the sub-committees.[4]

At Lincoln's Inn, the special meetings of the council were the committee of benchers that undertook various administrative functions.[5] This body of benchers also examined and investigated disciplinary cases. The proceedings of these investigations and all other Inn business were reported in the Black Books, which recorded the minutes of the governing council of benchers.[6]

Finally, the Special Parliament was the body of benchers that administered Middle Temple. This body also undertook the Inns' disciplinary processes. All decisions and business that the Special Parliament[7] undertook were recorded in the Middle Temple's Minutes of Parliament.[8]

Although they shared some characteristics with "nationally-based tribunals",[9] for example the General Medical Council,[10] these committees were unique tribunals in the nineteenth century in the sense that there were four of them, until the formation of the Bar Council in 1884, there was no single body that considered the overarching interests or regulation of the bar as a whole profession.

[4] ITA, ITA-DIS/1
[5] Information provided by Mr G Holborn, Librarian of Lincoln's Inn Library; see also LIA, Black Books (BB Original Editions), vol. 18–39 (1799–1901), Lincoln's Inn Library
[6] ibid
[7] JB Williamson, *Middle Temple Bench Book,* (Chancery Lane Press 1937); MTA, MT.1/MPI/10–21 (1798–1908)
[8] MTA, MT.1/MPI/10–21
[9] RE Wraith and PG Hutchesson, *Administrative Tribunals*, (George Allen & Unwin Ltd 1973), chapter 3 - Structure, 71
[10] The overarching regulatory body of the medical doctors in the second half of the nineteenth century

In each of the Inns of Court, these distinctive committees were usually made up of between ten and twelve benchers.[11] The benchers were usually senior barristers (notably Queen's Counsel), due to their status as the leading legal practitioners at the Inn. Members of the Inn elected the benchers, the benchers then elected a leader, the Treasurer, for a term of one year. The Treasurer also had a Sub-Treasurer, or Deputy Treasurer, who was elected to assist the Treasurer in his duties. The remaining benchers were responsible for other roles and became masters of various spheres of Inn life. For example, the benchers elected a Master of the Revels,[12] a Master of the Gardens,[13] a Master of the Silver,[14] and a Master of the Moots.[15] These masters assisted the Treasurer and Sub-Treasurer in their general duties but also had specific tasks in the administration of specific Inn affairs. However, there was not a Master for Discipline or a Master for Conduct, or even a specific individual responsible for disciplinary procedure in the Inns of Court. This suggests that, although there were a number of disciplinary issues at each of the Inns of Court during the nineteenth century, they were not frequent enough to justify the creation of a specific permanent position to deal with these issues (see Table 3).

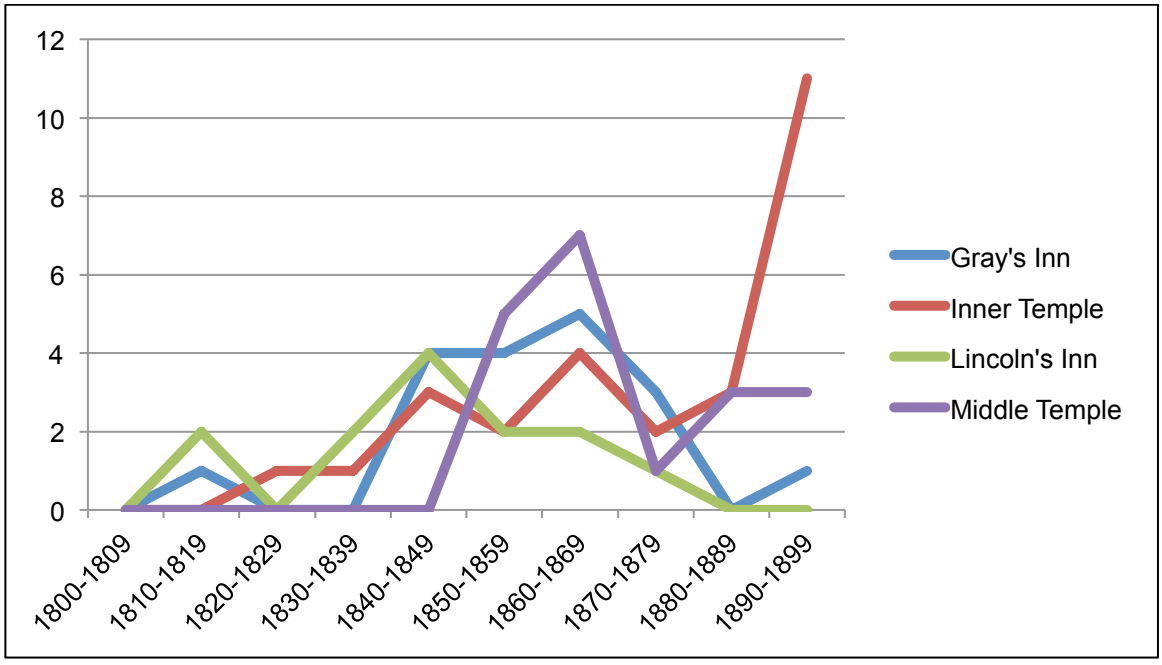
[11] This is outlined in the individual disciplinary records of the Inns.
[12] The Master of the Revels was responsible for organising formal dinners and dances
[13] The Master of the Gardens was responsible for co-ordinating the upkeep of the gardens and maintaining the property
[14] The Master of the Silver was responsible for maintaining the gold and silverware used in formal dinners and keeping it safe from theft
[15] The Master of the Moots was responsible for organising moots for students in order to train pupil barristers adequately for future practice

Table 3 - The number of disciplinary cases heard before the bench committees in each of the Inns of Court 1800-1900

Inn of Court	Number of disciplinary cases heard (1800–1900)
Gray's Inn	18
Inner Temple	27
Lincoln's Inn	13
Middle Temple	19
Total	77

(Sources: Inns of Court Archives, Disciplinary Papers and Bench Papers[16])

Table 4 - Frequency of Disciplinary Cases across the Nineteenth Century (1800-1900) in each of the Inns of Court



[16] GIA, DIS/1/1-3 (1848–70), DIS/2/1-19 (1812–1900); ITA, ITA-DIS/1; LIA, BB, vol 18–39 (1799–1901); MTA, MTA-MT.3/DIS (1845–1895): Disciplinary Proceedings against Members of the Middle Temple

As the tables above convey, the Inns of Court heard only 77 disciplinary cases during this period,[17] confirming that each Inn would not require a specifically elected individual to be responsible for upholding a particular standard of professional conduct. The records of the Inns of Court also show that disciplinary issues were heard before all, or at the very least most, of the benchers on their committees. This suggests that disciplinary cases were considered important enough to be examined, investigated and discussed by the whole committee, not just a small number of benchers. This situation also demonstrates the importance placed upon resolving disciplinary issues within the profession, rather than outside of it. There is an explanation for the low number of disciplinary cases; day-to-day misbehaviour and minor issues of misconduct were formally ignored then dealt with in an informal manner. The patriarchal hierarchy embodied in the system of peer regulation led to senior barristers actively regulating the junior members of the profession. Senior members monitored the conduct of barristers whilst attending the Inns of Court, especially whilst dining, attending revels, and undertaking professional events. Therefore, senior barristers dealt with minor misconduct and smaller misdemeanours as they occurred, personally, in a face-to-face manner. This took the form of a verbal reprimand or a minor fine to be contributed to the wine fund.

It is also arguable that the master or bencher responsible for the specific area may have dealt with minor misdemeanours unofficially; for example, the Master of the Revels dealt with any misbehaviour in a revel or dinner, or the Master of the Gardens with any damage to Inn property or the gardens. Due to the informal nature of such disciplinary issues and the inherent characteristics of

[17] See Table 3

the bar's peer regulation, this led to such incidents being unreported and may explain the low number of disciplinary cases heard before the bencher committees.

It is also clear from the visualisation of the data in table 4, that there is clearly an increase in disciplinary activity from the 1840s onwards. As this is based on the disciplinary records in the Inns of Court archives, this rise in disciplinary cases could just be a consequence of better record keeping or incomplete records. However, the records of Lincoln's Inn are a continuous series (the Black Books) and they demonstrate a significant increase in the 1840s. While it is difficult to demonstrate a causal link between this increase and the contextual factors affecting the bar in the nineteenth century, there was clearly a closer examination of the bar and its affairs by central government and, as will be shown in this chapter, through the press in the mid-nineteenth century. This increase during the mid-nineteenth century may also demonstrate the bar responding to its external criticisms and being more proactive in the regulation of barristers professional activities. As it has been argued earlier in this thesis, the ever-growing press of the nineteenth also placed the bar's professional activities in the public view more than ever. Therefore, the Inns of Court may have been more inclined to regulate those that broke etiquette and be seen to punish those who behaved in a manner unbecoming of a gentleman of the profession. The increased exposure that the profession received during the period may have encouraged the profession to think carefully about the image of the bar that was being presented and therefore regulate more effectively.

Due to this extensive reporting of trial reports, court proceedings and the bar's educational issues in the nineteenth century press, the press also acted as

a means through which the conduct of barristers could be monitored, examined and even questioned by the Inns of Court. Prior to a barrister being investigated by a disciplinary committee, the Inn needed to be informed of any alleged misconduct. If a barrister committed an act of misconduct, whether in his private or his professional life, the bencher committees could only investigate his conduct if it was brought to their attention. Alongside submissions from circuit mess benchers[18] and submissions from presiding judges,[19] a principal method through which disciplinary matters were brought to the notice of the Inns of Court was through the press.[20] These press reports also informed the Inns of Court of the professional conduct of barristers in the central and provincial courts and the often-verbatim nature of such reportage made the regulation, and subsequent discipline, of barristers easier and better informed.[21] For example, the case of William Burge in 1849 was a disbarring order for a bankrupt who was imprisoned for his debt. This was brought to the attention of the Inn bencher committee through the press, who then recorded the issue (including press cuttings) and

[18] In the disbarring of Charles Edward Moore – MT DIS/24 – reports of his contempt before Mr Justice Kay were sent from the leader of the circuit mess to the Special Parliament of Middle Temple.

[19] See the case of Charles Wray Lewis discussed below - GIA, DIS/1/2/14, Charles Wray Lewis, Disbarred – in which the presiding trial judge sent a copy of his notes outlining the conduct of

[20] In the disciplinary issues of Mr Daniel Newton Crouch (GIA, DIS/1/2/4), the evidence in the Inn records suggests that his impropriety in court and unethical conduct in the case of R *v*. Pond, Henry and Need was brought to the attention of the Inn benchers by the reporting of the case and his actions in *The Times* (*The Times,* 23 Sept 1844). See also the disbarring of Henry William Hemsworth – ITA-DIS/1/H5 – In which *The Morning Chronicle*, 21 Feb 2851 (see also *London Evening Standard*, 20 Feb 1851) report of Re Alexander Black led to his examination by the Bench Table Committee of Inner Temple for Hemsworth's financial dealings. A number of disciplinary records in the inn archives also contain press clippings as evidence. For example, see William Burge below.

[21] See ITA, ITA-DIS/1/B1, William Burge. Burge was disbarred for being declared bankrupt by the Insolvent Debtor's Court in York. He was also imprisoned for these debts. This was brought to the attention of the benchers of Inner Temple through the press and the records contain press cuttings of all the court reports from the Yorkshire press. See also *The York Herald and General Advertiser*, 27 Jan 1849, *Daily News*, 26 Feb 1849 and *The York Herald and General Advertiser*, 3 Mar 1849

their decision within their minutes.[22] The bar was able to monitor the behaviour of their members and draw upon press evidence in their disciplinary processes.

Although the press was the main source of information with respect to disciplinary misconduct, the bar also investigated the conduct of its members through complaints made by members of the public.[23] Letters were often sent by individuals to instigate investigations.[24] They were usually letters from those members of the public who had observed a barrister committing an act of misconduct or sent by people who had experienced misconduct in the course of a barrister's professional pursuits, including disgruntled witnesses or dissatisfied clients.[25]

A further avenue for identifying misconduct was peer regulation. The unwritten nature of the bar's etiquette meant that only other members of the profession knew the specific rules that a barrister had to adhere to. Therefore, if a barrister or judge witnessed a fellow barrister breaching etiquette, it was their duty to report it to the relevant Inn of Court. If an alleged incident of misconduct occurred a fellow barrister or, if the incident happened in court, a judge would report the incident to the benchers of the barrister's Inn. The judge would forward a letter describing the alleged misconduct, accompanied by a statement of facts, in order to inform the benchers of the precise issue at hand.[26] The

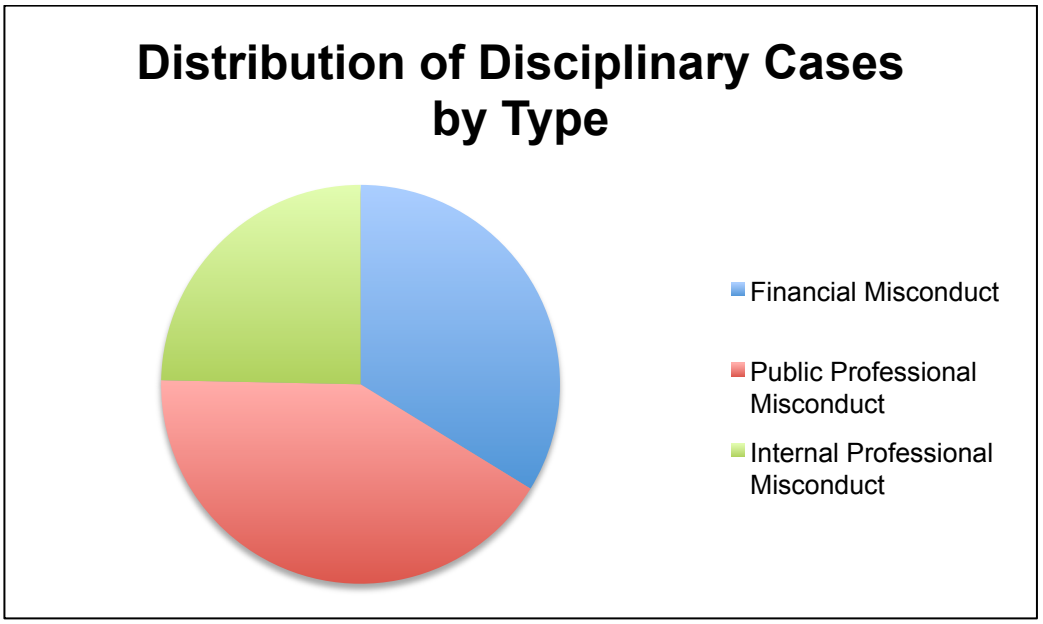
[22] *Ibid*
[23] See ITA, ITA-DIS/1/D1, H Bargrave Deane. A letter of complaint from Mr Rayner, a defendant in a probate case, complaining that Mr Deane acted unprofessionally. Mr Rayner alleges that Mr Deane suppressed material evidence, refused to explain the circumstances of the case to the court, declined to cross-examine witnesses on his client's behalf and "did all he could to make me, his unfortunate client, lose the trial"
[24] See ITA, ITA-DIS/1/G2, William Gill. Gill was accused of obtaining by false pretences £2,000 from Mary Dodd who submitted letters of complaint to Inner Temple
[25] ibid; ITA, ITA-DIS/1/D1, H Bargrave Deane
[26] See 'A Barrister Disbarred for a Breach of Professional Etiquette' *Daily News,* 4 February 1862, which led to LIA, BB, Vol 29 (1860–1862), re Charles Broadbelt-Claydon disbarred

industrialisation and modernisation in the nineteenth century facilitated this, especially through the growth of the national postal service[27] and the increased speed of travel encouraged by the railways.[28]

The subject matter of disciplinary issues brought before the bencher committees can be grouped into three distinct areas: financial misconduct, public professional misconduct, and internal professional misconduct. The table below shows the distribution of disciplinary cases across this subject matter heard by the fours Inns of Court in the nineteenth century. It is clear that public professional misconduct and financial misconduct represent the largest proportion of disciplinary cases respectively. The importance of regulating these areas of misconduct was fundamental to upholding public trust and the reputation of the bar in the public mind, particularly in the second half of the nineteenth as the bar was under increasing pressure from outside and the public were becoming more acquainted with legal heroes and practising villains. The fact that the number of internal professional misconduct issues is low by comparison to the remaining categories may be indicative of the internal nature of etiquette, internal misconduct being dealt summarily by benchers as they occurred.

[27] D Campbell-Smith, *Masters of the Post: The Authorized History of the Royal Mail,* (Penguin Books 2011) Chapter 4 and Chapter 5 eBook
[28] S Bradley, *The Railways: Nation, Network and People,* (Profile Books 2015) Chapter 1 eBook

Table 5 - Distribution of Disciplinary Cases by Type



Financial misconduct concerned barristers who had fraudulently obtained money, [29] misappropriated trust funds, [30] fraudulently obtained judgments to discharge debts, [31] been declared bankrupt, [32] or had been involved in unauthorised moneylending.[33] These were often closely linked to public trials as many of these cases of financial misconduct came to the attention of the bar following a publicised or press reported criminal trial or civil suit. The bar was able to monitor the behaviour of their members due to the widespread reporting of legal cases in press, and if the barrister was indicted or involved in a civil dispute, then the benchers were able to respond accordingly.

[29] See LIA, BB, Vol 34 (1875–1884), vol 35 (1879–1884), re JL Litton; ITA, ITA-DIS/1/G1, William Gill
[30] See 'Disbarring of Mr GW Hastings', *Pall Mall Gazette,* 23 Jul 1892
[31] See MTA, MT.3/DIS/1, Augustus Newton
[32] See ITA, ITA-DIS/1/J1, Edwin James QC
[33] See 'A Barrister Disbarred', *The York Herald,* 14 Jul 1883

Public professional misconduct included misconduct that was of a public nature and contravened the bar's professional etiquette in the public sphere.[34] Barristers convicted of crimes such as bigamy,[35] theft[36] and murder[37] were disbarred by the Inns of Court. Considering the legal nature of a barrister's vocation and the reputation of honour that the bar so fiercely attempted to uphold, it is clear to see why individuals who committed these criminal offences were disbarred from the profession and would be no different today. A legal professional cannot facilitate justice if they cannot abide by the law themselves. A barrister that committed a criminal offence or abused his professional position for financial advancement disgraced and dishonoured both his reputation and that of his vocation. However, the conduct of barristers in the public domain could also lead to a barrister being disbarred without having committed a crime. A barrister could be disbarred for his conduct in the social sphere, such as attacking the establishment or his profession as the editor of a newspaper,[38] or through his contribution to the press.[39]

In chapter one, it was noted that the bar placed paramount importance on its etiquette in upholding its traditions and customs. Internal professional misconduct usually concerned barristers who had broken or disregarded the profession's internal and traditional rules of etiquette. The principal disciplinary

[34] The definition of the public sphere here is in public, so misconduct that had been carried out in public or had been addressed in a court, in contrast to purely internal misconduct dealt with by the Inns of Court.
[35] See LIA, BB, vol 34 (1875–1884), re FRF Banbury
[36] ITA, ITA-DIS/1/W2, H. Weightman
[37] See LIA, BB, vol 34 (1875–1884), re H De Tourville, was disbarred by Middle Temple Inn but recorded in Lincoln's Inn Black Books, confirmed in 'Town and Country Talk', *Lloyd's Weekly Newspaper*, 30 Jun 1878
[38] See GIA, DIS/2/17, Dr Kenealy; see also 'The Case of Dr Kenealy', The York Herald, 28 Nov 1874, "On Thursday Dr Kenealy, QC, was summoned to appear before his benchers to show cause why he should not be disbarred for articles written and published in The Englishman, of which paper Dr Kenealy is the editor, having reference to the Benchers of Gray's Inn"
[39] *Ibid*

cases that concerned internal professional misconduct dealt with the interaction between a barrister and an attorney. The Inns of Court heard disciplinary cases regarding barristers who had acted as attorneys and undertook work that an attorney[40] would usually do.[41] This included undertaking the drafting of legal documents as in the case of CW Lewis. Barristers were also disbarred for taking briefs without the intervention of an attorney,[42] effectively breaking the rule that a barrister could not take briefs directly from a client. H. H. Pyke was disbarred for acting as both attorney and barrister. This included meeting clients, drawing up briefs and then representing that client himself. Barristers were also disciplined for breaching etiquette when interacting with judges and fellow barristers in court.[43] The most pertinent example is Dr Kenealy's reprehensible conduct to the bench and colleagues at the bar in the Tichborne case, which will be explored in detail shortly.

Etiquette governed in-court relations and these trial-based interactions embodied the respect that was a foundation of the profession and its traditional rules, customs and convention. If a barrister broke etiquette in court, it represented the bar as ill disciplined and debased in the public reports of trials in newspapers.[44] Barristers who broke these rules of etiquette not only committed internal professional misconduct, but also committed public professional misconduct through the subsequent trial reports in the press. These three core

[40] An attorney's work was client-facing business, preparing briefs for barristers, and dealing with the majority of legal matters; including the paperwork of the law. See generally, R Pound, 'Legal Profession in England from the End of the Middle Ages to the Nineteenth Century' (1944) 19(4) *Notre Dame Law Review,* 315
[41] See GIA, DIS/2/14, CW Lewis
[42] See LIA, BB, vol 28 (1856–1860), re C Broadbelt-Claydon; GIA, DIS/2/5, H. H. Pyke
[43] See GIA, DIS/2/17, Dr Kenealy
[44] Dr Kenealy's behaviour during and after the Tichborne trial is an excellent example of this.

areas of misconduct by barristers, that were outlined previously, made up the majority of cases heard before the benchers.

Representations such as these in the popular press culture of the period had a profound effect on the public image of the barrister. It is argued that the press exposure of these villains propagated anti-lawyer stereotypes, and the profession was quick to disbar and punish the offending barrister as these public incidents of professional misconduct brought the whole profession into disrepute. Thus, the bar regulated its affairs largely because of the effect the press has on public opinion, and the subsequent effect it had on the profession, or at least the view of the profession.

The Popularisation of the Barrister's Regulatory Affairs

This section will consider how the representation of the bar's regulatory affairs became a popular subject of reporting during the Victorian period. This section also examines how the extensive press representation of the barrister in the legal process lead to a public interest in the wider issues and affairs of the bar, including discipline and regulation. It also forwards earlier arguments around the relationship between the press and the bar, specifically that they existed in perpetual collaboration, both working within a symbiotic partnership of providing information and cultural representation. This includes how barristers contributed to the press, how the bar used the press for information, and how the public engaged with the bar's affairs. This section continues preceding discussions in this chapter, highlighting how the exposure of disciplinary cases positioned the barrister as a principal character in the popular culture of the press.

It has been argued in this thesis that the extensive press reporting of cases, particularly criminal process, created a widespread public interest in the affairs of barristers and the conduct of these 'superior' legal professionals. It was an evolutionary consequence that as interest in the barrister became popular, public interests in wider issues proximate to the bar were important. The public began to take an interest in many aspects of the bar's professional existence, including their regulatory and educational affairs. As outlined, the press reported the disbarring of barristers and commentated on their unethical conduct, not only due to this public interest in the legal profession, but also as a means of public announcement. This meant that the public were aware of barristers who were no longer authorised to practice.

The bar circulated notices of disbarment to the press, which were then cross-reported (reported directly from another newspaper) by the national and regional press. This ensured that the rest of the profession across Victorian England was aware of a particular barrister's disbarring. It is important to note that this news transmitted numerous messages to the public. It represented the bar as regulating itself efficiently and effectively by punishing those who contravened etiquette and brought shame upon their profession. However, it also represented these well respected, honourable and learned gentlemen as engaging in debased, immoral and, occasionally, illegal activities. Thus, it will be argued that the press representation of the regulation of the bar perpetuates the hero and villain themes outlined earlier in this work. These are themes that will be explored in more detail later in this chapter with respect to the discipline of specific barristers throughout the nineteenth century.

The continued exposure of the bar in the press of the nineteenth century ensured that the public had a familiarity with both the profession and individual barristers. The awareness of characters within the profession encouraged the public to have a vested interest, even if this was just a curiosity in the regulatory and disciplinary affairs of the bar. This was especially true when it concerned barristers that had become celebrities or had already been singled out as villains through the press reporting of the legal process.

As individual barristers became well known, the disbarring of barristers was particularly newsworthy due to the character themes and motifs that were transmitted via the press. These themes often conformed to ideas and stereotypes found in other cultural texts, including literature. The concept of an individual barrister transgressing his own ethical responsibilities drew parallels with literary tropes and motifs found in other narrative sources.[45] Themes such as the fall from grace of the hero once perceived as noble, were embodied in the discipline and disbarring of a barrister.

The barrister was often represented as a guardian of justice and in the illustrated press of the period the barrister became a visual and metaphorical symbol representing the legal system, specifically being used as a pictogram personifying the Common Law.[46] These guardians of justice who were represented breaking their own regulatory rules, and even the law itself, were particularly controversial. The reporting of barristers who broke etiquette continued to further the characterisation of the barrister as villain in the press of the period. It can be argued that the press sustained literary tropes that were

[45] Mr Tulkinghorn, while a solicitor, is one such example in C Dickens, *Bleak House* reprint (Penguin Classics, 2011)
[46] See chapter three - The Visual Representation of the Barrister

common in the reporting of trials and cases before the court. The ability to represent the lawyer in this way popularised the depiction of barristers and the regulatory affairs of the bar.

The representation of barristers contravening the professions etiquette and the regulatory rules of the profession was a highly contentious subject. The bar was a profession built on social conventions, gentlemanly morals and vocational conduct based around individual and professional honour. The prefix title of 'learned' transmitted a powerful message to the public and the fundamental norms of etiquette based around maintaining the profession's reputation depicted the bar as a unique body in nineteenth century society. Therefore, the representation of individual barristers breaking their ethical responsibilities was particularly salient in light of their own claims of honour and gentlemanly conduct.

To represent a barrister disregarding his obligations to the profession and to the wider aims of justice demonstrated to the public the hypocritical nature of the bar's etiquette. Sugarman and Pue describe this as the "lofty claims and debased realities"[47] of the profession and have used this paradigm in their analysis of the cultural representation of lawyers in modern popular culture.[48]

Similarly, in the nineteenth century, the prolonged exposure of law and legal process allowed the press to examine and report occurrences and stories in other spheres of the bar's professional existence. Subsequently, the press were

[47] See generally, WW Pue and D Sugarman (eds), *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)
[48] *Ibid*

quick to seize upon the hypocrisies in the profession's regulation,[49] in much the same way that popular sources continue to today.[50]

The bar's system of unwritten, internalised self-regulation was juxtaposed to the ideological shift from individualism towards centralised governmental and industrial regulatory bodies. This made for an important comparison in the press of the period. In the first half of the nineteenth century, central government began, albeit with a reluctant popular acceptance,[51] to intervene in the activities of public bodies and the private affairs of individuals. This concept has been referred to in historical literature as state intervention.[52] State intervention involved central government and its executive actively regulating or controlling the way in which a particular activity or professional body was run. This effectively took away the regulatory power from the body itself, where previously it had developed and operated uncontrolled by the state.

Nineteenth century governments, through Parliament, passed numerous pieces of interventionist legislation and created a number of centralised regulatory bodies to monitor and control these activities. This took the operation of many activities out of the hands of individuals or organisations (such as mine and factory owners or railway operators) and placed the power to regulate them

[49] 'A Blackleg Union', *Reynolds's Newspaper,* 27 May 1894

[50] For example, the ongoing debates around the inadequacy professional legal regulation see N Rose, 'Pitt cools talk of single regulator as he bids to build reform consensus' *legalfutures.co.uk,* <http://www.legalfutures.co.uk/latest-news/pitt-cools-talk-single-regulator-bids-build-reform-consensus> accessed 6 Oct 2014

[51] C Stebbings, *Legal Foundations of Tribunals in Nineteenth Century England*, (CUP 2006) 75

[52] See M Hill, *The State, Administration and the Individual,* (Fortana/Collins 1976); D Roberts, *Victorian Origins of the British Welfare State,* (reprint, Archon Books 1969); MW Thomas, 'The Origins of Administrative Centralisation' (1995) 3 *Current Legal Problems* 214; AJ Taylor, *Laissez-faire,* (Macmillan 1972)*;* O MacDonagh, 'The Nineteenth century Revolution in Government: A Reappraisal' (1958) 1(1) *The Historical Journal* 52; HW Parris, 'The Nineteenth century Revolution in Government: A Reappraisal Reappraised,' (1960) 3(1) *Historical Journal* 17*;* JB Brebner, 'Laissez Faire and State Intervention in Nineteenth century Britain' (1948) 8 *Journal of Economic History Supplement* 59 and PWJ Bartrip, 'State Intervention in Mid-Nineteenth century Britain: Fact or Fiction?' (1983) 23(1) *The Journal of British Studies* 63

into the hands of state-controlled inspectors, commissions, boards and departments. The intention of central government was improvement through centralised control and this state intervention was in response to the considerable changes in social structure during the extensive industrialisation and urbanisation of the nineteenth century.[53]

The press took news, "analysed it, created causes and exposed injustices".[54] The press was crucial in lobbying for change. It was critical of the unequal distribution of wealth[55] and the hypocritical morality[56] found within society. The press reported on accidents and disasters in the mines and railways, reported the findings of Parliamentary investigations, and often published their opinion on such news and governmental investigations. Some aspects of the press campaigned against social inequality and was often outspoken in their disgust and dissatisfaction at such problems. Their aim was to change the imbalances through exposure, in effect by publicising different political, economic, religious, and moral ideologies. They led different campaigns on various issues and lobbied the government for intervention. Some pertinent examples are now discussed.

The *Pall Mall Gazette*, for example, exposed baby farming in the 1860's, and advocated reforms to the justice system.[57] Its flamboyant editor, William T. Stead (editor 1883–1889), published a highly controversial exposé into child prostitution and white slavery by paying £5 to purchase Eliza Armstrong, a

[53] D Roberts, *Victorian Origins of the British Welfare State*, (reprint, Archon Books 1969) 316–317
[54] J Knelman, *Twisting in the Wind: Murderess and the English Press,* (University of Toronto Press 1998) 37
[55] *Punch*, 7 Dec 1844
[56] *Ibid*; *Punch*, 19 Mar 1892
[57] *Ibid,* 161

chimney sweep, and recording the story in his paper.[58] Although he was subsequently tried and convicted for the crime, it exposed an immoral enterprise and encouraged the passing of the Criminal Law Amendment Act.[59] *Punch* also crusaded to promote "social reforms through moral satire and pungent ridicule".[60] *Lloyd's Weekly Newspaper* "embraced the cause for democracy (Chartism and universal suffrage) ... was anti-slavery, and represented the English worker".[61]

In contrast, newspapers such as *John Bull,* a Tory paper, campaigned for the preservation of state institutions and did not advocate any "new schools of political or religious thought."[62] Instead, it championed issues that were within its agenda, such as support for the ultra-protestant "orange cause and opposed catholic emancipation".[63]

The campaigns waged by some portions of the press advocating industrial reform and social improvement influenced government policy[64] and, together with new political and philosophical ideologies, encouraged the idea of Victorian humanitarianism and morality. The press was a driving force behind encouraging state intervention and, albeit reluctantly, acknowledged this modernisation in society as a necessary measure for social, economic and industrial improvement.

However, the bar stood at odds with this widespread ideological shift, the bar's system of internalised, peer-led self-regulation contravened this movement in public thinking in favour of transparent and more formalised systems of central

[58] *Pall Mall Gazette,* 4 Jul 1885
[59] Criminal Law Amendment Act (1885) 48 and 49 Vict, c.69
[60] *Punch* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (online edition)
[61] A Grant, *The American Civil War and the British Press,* (McFarland & Co 2000) 139
[62] *John Bull* in *The Waterloo Directory of English Newspapers and Periodicals 1800-1900* (online edition)
[63] *Ibid*
[64] See WT Stead's campaign in *The Pall Mall Gazette* discussed above.

regulation. As the bar's disciplinary processes clashed with the political, industrial and cultural shift towards formal external regulation, the regulation of the profession was examined with renewed interest. It was this concept of self-regulation that spread distrust in the legal profession and its ability to regulate itself efficiently. It is argued that there was a growing cynicism amongst the public towards the legal profession's internalised self-regulation and that the distrust of the legal profession's self-regulation manifested itself in historical and contemporary popular culture. This juxtaposition between ideologies of individualism and interventionism in regulation in the nineteenth century ensured that themes and concepts of distrust were developed in nineteenth century press sources.

All of these factors contributed to the popularisation of the bar's regulatory affairs in the press of the nineteenth century. More fundamentally for this thesis, the press reporting of misconduct and disciplinary cases raised the profile of the lawyer in the public consciousness, reaffirming anti-lawyer sentiments and themes of the barrister as a villain in the popular culture of the press of the period.

The Press Representation of the Barrister's Regulation in the Nineteenth Century

This section will ascertain how the bar's regulatory affairs were reported in the press during the period, and explores how the barrister was depicted in newspapers and magazines, including national and regional publications. It will examine the representation of legal professionals in disciplinary cases that were recorded in the Inns of Court Records and then reported in the press.

Furthermore, this chapter examines the themes and motifs through which the disciplinary affairs of individual barristers were depicted, while also examining wider representations of the professions ethics and regulatory structures.

As mentioned earlier, the disciplinary process through which a barrister was disbarred was conducted behind closed doors and there is no reference to the actual process of discipline by the Inns of Court in the nineteenth century press. The process of discipline at each of the Inns of Court was not made public through any other means, and the process that was outlined earlier has been gleaned from the records in the Inn libraries through a comparison of their records. Therefore, the public were made aware of individual barrister's indiscretions and the outcome of various hearings but had little knowledge of the process through which the profession regulated itself.

Ordinarily, the national press reported the disbarring of individual barristers and this was often reported a day or two later by the regional press. Due to the public nature of the profession, when a barrister had been disbarred the press reported it and often highlighted the Inn of Court that had disbarred him. In the case of Edwin James, who was a high-profile, celebrity barrister and whose disbarring will be explored in detail later in the chapter, national newspapers such as *The Standard,*[65] *The Morning Chronicle,*[66] and *The Examiner*[67] reported his disbarring and many provincial newspapers then reported this regulatory affair, including *The Sheffield & Rotherham Independent,*[68] *The York Herald,*[69] *The*

[65] 'Mr. Edwin James', *The Standard*, 20 Jul 1861
[66] 'Mr. Edwin James', *The Morning Chronicle*, 20 Jul 1861
[67] 'Mr. Edwin James', *The Examiner*, 20 Jul 1861
[68] 'Mr. Edwin James', *The Sheffield & Rotherham Independent,* 20 Jul 1861
[69] 'Mr. Edwin James QC', *The York Herald,* 20 Jul 1861

Hampshire Telegraph and Sussex Chronicle,[70] *The Manchester Times,*[71] *The Aberdeen Journal*,[72] *The Derby Mercury,*[73] and *The Royal Cornwall Gazette,*[74] demonstrating the far-reaching dissemination of these regulatory reports.

However, there is inconsistency in the level of reporting of this affair. For example, *The Examiner, The Standard* and many regional newspapers dedicated a mere inch of a column to this report, merely stating, "MR EDWIN JAMES-After many adjournments a parliament was held on Thursday evening. Mr Edwin James QC was disbarred by the benchers of Inner Temple, and the fact was ordered to be communicated to all the judges of law and equity, and the other three Inns of Court."[75] This manner of informative reporting was common but the press did also take the opportunity, where they could, to commentate upon the issue at hand and offer opinion. *The Morning Chronicle* dedicated over 2 columns to the event and outlined not just the disbarment order and his supposed offences, but also a scathing criticism of the Inns of Court and the legal profession.[76] The report particularly highlighted, that "the British public are not unlikely to adhere obstinately to their belief in innocence of one who has been tried and condemned by a secret tribunal."[77] The criticisms were echoed in *Lloyd's Weekly Newspaper* also.[78]

[70] 'Mr. Edwin James QC', *The Hampshire Telegraph and Sussex Chronicle*, 20 Jul 1861
[71] 'Mr. Edwin James', *The Manchester Times,* 20 Jul 1861
[72] 'Mr. Edwin James', *The Aberdeen Journal,* 24 Jul 1861
[73] 'Mr. Edwin James', *The Derby Mercury,* 24 Jul 1861
[74] 'Mr. Edwin James', *The Royal Cornwall Gazette,* 26 Jul 1861
[75]Mr. Edwin James', *The Standard*, 20 Jul 1861 and Mr. Edwin James', *The Examiner*, 20 Jul 1861
[76] 'Mr. Edwin James', *The Morning Post*, 20 Jul 1861
[77] *Ibid*
[78] 'Mr Edwin James', *Lloyd's Weekly Newspaper,* 21 Jul 1861

The same can also be said for the reporting of less high-profile barristers, such as John Henry Barker Lytton.[79] The disbarring of Lytton was reported in a number of provincial papers, such as *The Liverpool Mercury,*[80] *The Leeds Mercury*,[81] *The Bristol Mercury,*[82] *The Bradford Observer*[83] *Exeter Flying Post*,[84] and 15 other provincial papers. The amount of coverage this case received varied in detail, but was between 2 and 3 inches of a column. Lytton was a barrister who had been charged with fraudulently obtaining money from his local fishmonger, Mr Paine[85] and contextual information such as this was mentioned in many of the regional reports. This is not just a simple statement of disbarring, but much more contextual information. Even with his 'non-celebrity' status, the disciplining and disbarring of Litton was still reported widely, including in three national papers *The Standard,*[86] *The Pall Mall Gazette*[87] and *Lloyd's Weekly Newspaper.*[88] *Lloyd's* dedicated around 4 inches of a column to Lytton and provided a detailed explanation of why he had been disbarred including his financial misconduct and his subsequent trial. Further specific examples of disbarring will be dealt with later.

This routine press reporting of disciplinary affairs of the bar ensured that the public of the nineteenth century were made aware of individual barristers' indiscretions and the press was indiscriminate in reporting the results of the bar's disciplinary processes. The press reported at least 35 of the disciplinary cases

[79] 'John Henry Barker Litton', *The Evening News*, 15 Mar 1879
[80] 'A Barrister Charged with Fraud', *The Liverpool Mercury*, 15 Mar 1879
[81] 'Charge of Fraud against a Barrister', *The Leeds Mercury*, 14 Mar 1879
[82] 'Serious Charges against a Barrister', *The Bristol Mercury,* 29 Mar 1879
[83] 'John Henry Barker Lytton', *The Bradford Observer,* 15 Mar 1879
[84] John Henry Barker Lytton', *Exeter Flying Post,* 2 Apr 1879
[85] 'John Henry Barker Lytton', *The Evening News*, 15 Mar 1879
[86] 'John Henry Barker Lytton', *The Standard,* 14 Mar 1879
[87] 'Mr John Henry Barker Lytton', *Pall Mall Gazette,* 14 Mar 1879
[88] 'Charges Against a Barrister', *Lloyd's Weekly Newspaper,* 23 Mar 1879

heard by the Inns of Court bencher committees. Specific representations of these disbarrings were made in a factual and news-like manner, which drew parallels with the factually accurate and legally nuanced style of reporting that was common in trial reports and legal intelligence, but was also willing to commentate and provide opinions on some cases.

A large number of press reports that conveyed the disciplining of a barrister was via a simple statement outlining their disbarring, henceforth referred to as a disbarring order. These were commonly a statement of the barrister's name and position (for example, QC or barrister at law), outlining that a meeting of the relevant bencher committee at his Inn of Court had disbarred him. These acted as a source of information for the profession and the public alike, legal professionals were able to remain abreast of changes within the profession and the public remained informed of disciplinary decisions within the Inns of Court. The press are often reproducing statements made by the Inns and acting as a source of information. These disbarring orders were merely 2 inches of a column.[89] However, certain other cases were described and commented upon in more detail.[90] The press often based these more detailed descriptions of the cases on the details of the barrister's misconduct or a commentary on the process of disbarment by the Inn.[91] However, even where simple disbarment orders were published, they did convey certain messages to the public

On the one hand, the public perceived the individual barrister as a villain when presented with reports of him contravening his own regulatory codes and social etiquette. Even if the reports of the barrister's indiscretion were not in-

[89] As in the case of Edwin James discussed above and later in this chapter.
[90] As per the case of John Henry Barker Lytton discussed above and later in this chapter.
[91] 'Serious Charges against a Barrister', *The Bristol Mercury,* 29 Mar 1879

depth, they still represented the profession as violating its own ethical codes. Even if the newspaper story did not outline the specific reason for his disbarring, the mere fact that a barrister had been disbarred or disciplined for improper conduct perpetuated negative themes and motifs that were transmitted in other cultural sources and the wider mainstream press.

Furthermore, while self-regulation proved to be effective in such disbarring cases, the internalised nature of this self-regulation also stimulated feelings of mistrust and mystery around the bar's characteristics.[92] In a political and social climate that was moving continually towards transparency and accountability in many spheres of government, society and regulation,[93] the absence of transparency in the bar's regulatory systems forwarded a general lack of understanding. While such state intervention and formalised forums of dispute resolution were met with, at best, reluctant acceptance,[94] there was still an acknowledged and accepted move towards transparency and efficient processes.[95] The bar's internalised regulatory committees stood at odds with the public desire for intervention and modernisation where there was a humane reason for doing this.[96] Law reform could be viewed as one such area for humanitarian reform and how could those that facilitated justice be trusted, if they did not do justice themselves? However, there was clearly a standardised system of regulation in place, and consistent across the Inns of Court. However, due to

[92] See earlier discussions around mystery and mistrust in chapter two and three.
[93] JB Brebner, 'Laissez Faire and State Intervention in Nineteenth century Britain' (1948) 8 *Journal of Economic History Supplement* 65
[94] C Stebbings, *Legal Foundations of Tribunals in Nineteenth Century England*, (CUP 2006) 75
[95] *Ibid,* 99
[96] O MacDonagh, 'The Nineteenth century Revolution in Government: A Reappraisal' (1958) 1(1) *The Historical Journal* 58

its internalised features this was not clearly understood.[97] When this is compared to the transparent maxims of justice in England, which had been made even more transparent by the press, the bar stood at odds. This failed understanding of the bar's traditions and hierarchy enhanced mistrust in the profession and its motivations.

This thesis now explores the specific themes of misconduct that the bar examined during the period and analyses the representation of these villains through the press. While the press did present simple disbarring orders, they did also deal with specific information of the case and some limited information about the hearings themselves. The following sections also suggests themes and motifs that were transmitted to the public through the representation of individual barristers in popular sources, and demonstrates how these themes encouraged stereotypes of the lawyer in the public consciousness, contributing to the construction of a substantial public image. As outlined earlier, three core areas of misconduct arose: financial misconduct, public professional misconduct, and internal professional misconduct.

Financial Misconduct

Issues of financial misconduct represented by the press propagated and reinforced stereotypes of the barrister as greedy and motivated by money, which are themes common in contemporary cultural sources and have been a constant theme throughout history, in various popular sources. These themes can be observed in the discussion of historical representations in chapter one. Barristers were publicised as undertaking acts or omission to take action related to financial

[97] Even contemporary legal history scholarship has not recognised the standardised form of regulation in the Inns of Court. Common understandings are that the Inns reacted in an ad hov manner with disciplinary issue. This is not the case.

misconduct, which allowed the public to question the moral integrity of the profession and likely consider the barrister to be dishonest. It also allowed the public to consider the regulatory structures of the profession, encouraging them to look beyond the representation of individual barristers and consider the profession as a whole. During the nineteenth century, issues of financial misconduct were contrary to the bar's strict unwritten etiquette and were dealt with severely.

The Inns of Court in nineteenth century England placed a high importance on punishing those barristers who acted dishonourably or contrary to the bar's strict moral code. The press reporting of this encouraged stereotypes of the lawyer as motivated by money, whilst also portraying the bar as treating severely its members who had betrayed the trust of their clients and dishonoured the profession.

A case that caused much controversy in the mid-nineteenth century was that of Edwin John James.[98] James was a successful barrister, who was made a QC in 1853. He also had a stable political career as recorder for Brighton between 1855 and 1861 and was returned briefly as Liberal MP for Marylebone in 1859.[99] However, he had immense debts and, following a number of financial indiscretions such as misappropriating trust funds, the benchers of the Inner Temple conducted an inquiry into his affairs. He was charged with attempting to pervert the course of justice by borrowing money from a defendant whilst

[98] GC Boase, 'James, Edwin John (1812–1882)', rev. E Metcalfe, *Oxford Dictionary of National Biography,* (online edn, Oxford University Press 2004) Jan 2008 <http://www.oxforddnb.com/view/article/14599> accessed 8 April 2014
[99] *Ibid*

defending the plaintiff and obtaining money by misrepresentation.[100] These transgressions related to financial misconduct were considered dishonourable and contrary to the bar's etiquette. Therefore, James was examined before the Inn Parliament of Inner Temple[101] and in the press, and his case was investigated intensely. The Inn Parliament subsequently disbarred him.

Newspapers reported the case of Mr Edwin James QC extensively[102] and the national (*The Standard, The Morning Post, The Examiner*) and provincial press (including *The Sheffield & Rotherham Independent, The York Herald, The Hampshire Telegraph and Sussex Chronicle, The Manchester Times, The Aberdeen Journal, The Derby Mercury, The Royal Cornwall Gazette,* and others) reported that the Inn Parliament of Inner Temple disbarred him.[103] The manner of reporting of this case was variable. Through many sources, the press acted as a channel of information. A clear, factual and news-like publication of these disbarring orders informed the public that this once well-respected barrister could no longer practise, act as a QC, or be an MP. This countrywide reporting of the disbarring of Edwin James suggests that this disciplinary process was of interest to the whole country, probably due to his position as a QC and as a political figure. Edwin James also featured in various *causes célèbres* during the period, including *The Ruggley Poisoner Case*, as mentioned in chapter two.

[100] See ITA, ITA-DIS/1/J1, Edwin James QC; Boase, 'James, Edwin John (1812–1882)'
[101] See ITA, ITA-DIS/1/J1, Edwin James QC, notes of proceedings and copies of evidence for committee members
[102] 'Mr Edwin James', *The Standard,* 20 Jul 1861; *The Morning Post,* 20 Jul 1861; *The Examiner,* 20 Jul 1861
[103] Reports on Mr Edwin James in *The Sheffield & Rotherham Independent,* 20 Jul 1861; *The York Herald,* 20 Jul 1861; *The Hampshire Telegraph and Sussex Chronicle,* 20 Jul 1861; *The Manchester Times,* 20 Jul 1861; *The Aberdeen Journal,* 24 Jul 1861; *The Derby Mercury,* 24 Jul 1861; *The Royal Cornwall Gazette,* 26 Jul 1861

Edwin James' position as a prominent member of society, most specifically as QC and politician, coupled with the familiarity the public had of him through his representation in select press *causes célèbres*, to wider public interest in his disciplinary hearings and his subsequent disbarring. In some respects he had a good public reputation for his highly-acclaimed prosecution of William Palmer, the Rugeley Poisoner, yet, he was also criticised by *The Spectator* for being "a leader in all actions for seduction, breach of promise of marriage, assault, and false imprisonment, and in all cases that involved the reputation of an actress or a horse."[104] Having already been a key figure in the press, it is clear that his disciplinary issues were of interest to the public and so they were extensively reported in the Victorian press.

The comprehensive reporting also demonstrated the dissemination of a complex theme of the transformation of the lawyer from guardian of justice to a barrier to justice.[105] This degradation of a lawyer's character and his proverbial fall from grace is a motif that was common throughout the press representation of the bar's disciplinary cases. This exposure of James's financial indiscretions demonstrated the abuse of his position and, more specifically, his degeneration into moral corruption through betraying trust was perceived by nineteenth century society as heinous and embodied the perception of the lawyer as hypocritical.[106]

The disciplinary affairs exposing Edwin James's indiscretions also exemplified that the bar as a whole possessed duplicitous standards and ideologies. The bar continually affirmed the importance placed on honour,

[104] 'The Career of a QC', *The Spectator*, 8 Feb 1862
[105] By Barrier to Justice this thesis refers to the idea that through his bribery of a witness he was acting to obstruct justice rather than assist in its administration.
[106] WW Pue and D Sugarman, 'Introduction' in WW Pue and D Sugarman (eds), *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)

gentlemanly conduct and the desire to maintain their superiority. Individual barristers such as James undermined this by representing the bar as money-hungry. The greedy lawyer was a well-established stereotype in popular sources[107] and was bolstered by reports such as this. More importantly, the reports furthered the public image of the bar as a hypocritical profession that disguised its immoral activity with a veil of honour and gentlemanly conduct.

The case of James also exemplified how the punishment of disbarring attached a great stigma to the individual barrister, effectively ending his career and preventing him from practising anywhere. The press assisted in this by reporting his disbarring widely. James quite clearly recognised this stigma and therefore attempted to resign by requesting his removal from the rolls voluntarily in order to avoid this disgrace. However, the Inn denied James's request[108] and he was disbarred by order of the Inn Parliament. This provides evidence for the idea that being formally disbarred from the legal profession naturally attached a debilitating stigma to the barrister in question, especially when considering the strict morality of the public and their rigid class views.

As a result, he and his family emigrated to the USA and he attempted to practise in New York. However, he struggled to attract clients due to his previous disbarring in England. It is evident that the dishonour of being disbarred ended a barrister's career, and that the stigma was recognised in other jurisdictions. Considering this evidence it is suggested that the press facilitated the transmission of such decisions by informing the public of disbarred barristers and

[107] See the discussion of satirical images in chapter three.
[108] Reports on Mr Edwin James in *The Sheffield & Rotherham Independent,* 20 Jul 1861; *The York Herald,* 20 Jul 1861; *The Hampshire Telegraph and Sussex Chronicle,* 20 Jul 1861; *The Manchester Times,* 20 Jul 1861; *The Aberdeen Journal,* 24 Jul 1861; *The Derby Mercury,* 24 Jul 1861; *The Royal Cornwall Gazette,* 26 Jul 1861

perpetuating the stigma by preventing a barrister from getting further work in Britain and around the world. This potentially demonstrates the influence of such press reporting across numerous jurisdictions and shows the perpetuation of themes of anti-lawyer sentiment emanating in England and being transmitted to other Common Law jurisdictions. Once more, this demonstrates the power of the press in transmitting themes and motifs of greed, financial motivation and the barrister as villain, both in England and further afield. While these disbarment orders may have been broadcast via telegraph or letter to other jurisdictions, the press was the most likely source of this information.

The disbarring of Edwin James also raised questions around the self-regulation of barristers in the press. National newspapers, such as *The Standard*[109] and *The Morning Post,*[110] described the decision to disbar Edwin James as being made following "many adjournments."[111] This suggests a criticism of the internalised process of the Inner Temple as slow and inefficient in resolving the case, something that they had already observed in the discussion of issues around the legal education.

The Morning Chronicle[112] condemned the disciplinary committee's internalised nature and lack of transparency, calling it a "secret tribunal" and claiming the "world at large cannot know anything of the real merits of the case. The outside public must take upon trust the decision of the Pundits of the Inner

[109] 'Mr. Edwin James', *The Standard*, 20 Jul 1861
[110] 'Mr. Edwin James', *The Morning Post*, 20 Jul 1861
[111] Reports on Mr Edwin James in *The Standard,* 20 Jul 1861; *The Morning Post,* 20 Jul 1861
[112] *The Morning Chronicle,* 20 Jul 1861

Temple. It may be a most righteous judgement and it may be an unrighteous one."[113]

The Morning Chronicle[114] also reported that the nature of the Inns' process was against English jurisprudence and suggests that lawyers existed beyond the law. Its reporters emphasised its juxtaposition with the ideological shift towards transparent and external state regulation by stating, "it is a maxim of English Jurisprudence, understood as well by the laity as by the profession, that justice should be administered in public before the eyes of men, and an inquisition of any kind that does not has been the object of horror and hatred in this free land." [115] They also described the Inn Parliament as "irresponsible" [116] and described the benchers as acting as "prosecutors, judges, jury and executioners."[117] Asking "is this English Justice? Is this English equity?"[118] was a clear criticism of the bar's internalised system of regulation and the sources compared and contrasted the bar's system of internalised regulation with the evolved system of Common Law and equity, even going as far as questioning whether the bar's procedures had a place in English law. [119] This raises arguments around the nature of self-regulation and the subsequent distrust and mystery that has continued around legal regulation in the following centuries.

The strongly worded criticisms of the bar's internal system of discipline that appeared in the press of the nineteenth century encouraged the public to consider and scrutinise these systems of peer regulation. They also perpetuated

[113] *Ibid*
[114] *Ibid*
[115] *Ibid*
[116] *Ibid*
[117] *Ibid*
[118] *Ibid*
[119] *Ibid*

the themes of mistrust and mystery that had surrounded the profession through cultural sources for many years. This was particularly true during the Victorian age, as the political and social upheaval indicative of the industrial revolution, led to more transparent, collectivised and objective regulation. The lack of transparency found in the Inn structures and the lack of obvious consistency[120] encouraged the public to question the impartiality and fairness of a tribunal that lacked neutrality and transparency. Although the punishment of a barrister who had committed such indiscretions transmitted to the public an image of effective professional regulation, the manner in which such regulation was actually undertaken worsened existing fears of individualistic, *laissez-faire* attitudes to regulation and encouraged further questions around the efficiency of self-regulation. This, in turn, presented the public with themes and motifs of the bar as unethical, intensifying the chariness and public suspicion around the profession's ethics and its ability to self-regulate.

There was also substantial criticism of the punishments that these Inn committees could invoke. The press criticised the power that the Inns of Court possessed to remove a man's profession through such peer-led self-regulation and this conveyed a complex set of themes and images to the public. It represented the profession as punishing severely those barristers who had betrayed the trust of the public and contravened the rules of the bar. It may have demonstrated an image of excessive power and control, especially in the climate of transparent regulation emerging in the nineteenth century. In an article over

[120] Those researchers who examine the disciplinary processes of the Inns of Court in contemporary scholarship and those professionals who worked within the barrister's profession during the nineteenth century will be familiar with the apparent consistency across the Inns of Court. Yet, to the lay member of the public this system of internalised hearings and peer discipline would have seemed ad hoc, unformulated and even unfair

ten years later, *Reynolds's Newspaper* was still continuing the discussion on Edwin James. Following his attempt to appeal against the decision of the benchers,[121] they described the disciplinary investigation as an "irresponsible tribunal".[122] The *Daily News* also echoed the sentiment that there is "something inherently objectionable in the infliction by an irresponsible body of a penalty which takes away a man's means of living".[123] This is a distinct criticism of the power of the Inns' processes. *Reynolds's Newspaper* also highlighted the differences between the disciplinary processes of the Inns of Court and the processes of the trade unions.[124] *Reynolds's Newspaper* stated that if a workingman had done something to contravene the rules or regulations laid down by his trade union or society:

> and that the governing body of that institution had, after a secret inquiry, determined to expel him, and forbade all other members of society working with him, and this was made public, what an outcry would be raised in the columns of your contemporaries about the tyranny and oppression of trade associations![125]

This comparison between trade unions and the legal profession is a stark one and attempts to display the hypocrisy, not only of profession and industry, but also of class boundaries, with the middle class bar and the working class trade unions.

Towards the end of the nineteenth century, *Reynolds's Newspaper*[126] actually called upon the government to reform the Inns of Court and to control the authority of the benchers in the management and regulation of the profession. They stated, "it is high time that the government interfered to prevent the

[121] 'High Class Unionism', *Reynolds's Newspaper,* 2 Feb 1873
[122] *Ibid*
[123] 'The Benchers of Gray's Inn', *Daily News,* 3 Dec 1874
[124] *Ibid*
[125] *Ibid*
[126] 'A Blackleg Union', *Reynolds's Newspaper,* 27 May 1894

intimidation and tyranny of this monstrous conspiracy against the rights of the public".[127] This represented the profession's self-regulation as both effective, in that barristers were disciplined well, but also ruthless in the power that they wielded. The ability of the bar to throw aside a member of the profession in order to maintain their honour and reputation did not represent the bar in a positive manner to some spheres of public society. This, coupled with the lack of transparency around etiquette and regulatory process, perpetuated the themes and motifs of these legal professionals as merciless and self-serving guns for hire. It represented the profession as dealing ruthlessly with those who contravened it's own imposed etiquette in the most severe manner possible.

These ideas of Inn's bencher committees as an irresponsible tribunal attest to the public's understanding of the legal process and certain jurisprudential concepts. As has been argued throughout this thesis, the public of the nineteenth century had an understanding and interest in the law and the legal process, while possessing perceptions of aspects of jurisprudential concepts and legal maxims. Therefore, the criticism of the Inns as an irresponsible tribunal demonstrates the press speaking to this knowledge and drawing upon the understanding of such ideas to demonstrate how these bencher committees stood at odds with maxims of the effective administration of justice in England and Wales.

The principal aim of the bar's etiquette was to maintain the reputation of the profession, a public image that the bar was desperate to uphold. The regulation and the disciplinary processes of the Inns of Court sought to achieve this by dealing mercilessly with those who broke etiquette or attempted to bring

[127] *Ibid*

the profession into disrepute. The representation of financial misconduct in the press severely affected the public image of the bar by representing these individuals as economic predators and supporting anti-lawyer sentiment and stereotypes.

One such barrister was Mr Foster Reid.[128] Reid was a policeman who, by his own energies, had worked up to the highest profession of the law and was called to the bar. However, the benchers of Gray's Inn were forced to disbar him after Mr. Justice Stephen referred a moneylending case to the Inn, in which Reid had acted as the creditor.[129] Moneylending was against the etiquette of the bar and was viewed as ungentlemanly conduct. Etiquette dictated that the bar needed to be represented as a trustworthy and honourable profession. Cases of financial misconduct such as this undermined the bar's public reputation and was detrimental to the respectability of the profession. The industrialisation of the nineteenth century saw the bar being relied upon further to work on industrial cases for a greater fee and dealing with large sums of money. So, the integrity of barristers was vital to maintaining a monopoly over litigation, continuing the superiority over the lower branch of the profession and the emerging alternative methods of dispute resolution. The quick and efficient disciplinary processes undertaken by the Inns of Court in matters of financial misconduct seemed harsh, but were crucial in maintaining the public image of the bar and removing those who were detrimental to the public image of the profession.

[128] 'A Barrister Disbarred', *The York Herald,* 10 Jul 1883
[129] *Ibid*

Another case of financial misconduct that represented the barrister as motivated by money and dishonesty was that of WG Hastings.[130] Hastings had been a barrister at Middle Temple, an MP for East Worcestershire and the chairman of the Worcestershire quarter sessions.[131] He was examined before the benchers and was subsequently disbarred[132] for the misappropriation of trust funds. During the nineteenth century the trust had become commercially established in English law,[133] and the main architects for the development of the trust were Victorian barristers.[134] Therefore, the misappropriation of trust funds was viewed as financial and professional misconduct, emphasising the importance of the trust as an honourable agreement and the significance of the barrister in the administration of trusts. Barristers in the nineteenth century were used as trustees, and their status as professional trustees was important in maintaining a professional, honourable and respectable public image.

A barrister misappropriating trust funds was disciplined severely in order to maintain the reputation of the bar. The disbarring of such barristers represented individual barristers as corrupt, whilst also transmitting an image of efficient and effective regulation. This was also true in the case of John Henry Barker Litton, who was disbarred by the benchers of Middle Temple following his arrest for fraudulently obtaining money from a fishmonger.[135] When he was arrested he was found to be in possession of thirteen pawnbroker's duplicates relating to articles of jewellery, a large number of unpaid bills, and papers from Middle

[130] *Ibid*
[131] 'Disbarring of Mr GW Hastings', *Pall Mall Gazette,* 23 Jul 1892
[132] *Ibid*
[133] See C Stebbings, *The Private Trustee in Victorian England,* (CUP 2002), 4
[134] *Ibid,* 5
[135] 'Lytton', *The Standard,* 14 Mar 1879; 'Lytton', *Pall Mall Gazette,* 14 Mar 1879

Temple requesting him to explain why he should not be disbarred.[136] It can be inferred from this that the Inn had already begun to commence proceedings against Litton for issues surrounding unpaid debts before he was arrested. This demonstrated that financial irregularity was an issue of financial misconduct and was examined by the Inn but also suggests that they were not required to report this as a criminal offence. It is clear that the press regularly reported the financial misconduct of individual barristers, and these reports continued long-standing anti-lawyer stereotypes of the barrister as a villain.

Public Professional Misconduct

Issues of barristers engaging in public professional misconduct propagated a number of diverse stereotypes that constructed a varied public image. Public professional misconduct involved breaches of etiquette that occurred in public life and included barristers who were convicted of a variety of crimes, including bigamy,[137] theft,[138] and murder.[139] Issues of public professional misconduct immortalised themes and motifs of the barrister as a liar, as ethically dubious, as corrupt lawbreakers, and as instigators of conflict. Yet, these issues also represented the hypocritical nature of the barrister's role. As effective guardians of justice and the symbolic figurehead of the law, their betrayal of their own professional codes and the law itself was a clear demonstration of this

[136] *Ibid*
[137] See LIA, BB, vol 34 (1875–1884), re FRF Banbury
[138] ITA, ITA-DIS/1/W2, H Weightman
[139] LIA, BB, vol 34 (1875–1884), re H De Tourville, was disbarred by Middle Temple Inn but recorded in Lincoln's Inn Black Books, confirmed in 'Town and Country Talk', *Lloyd's Weekly Newspaper*, 30 Jun 1878

duplicitous disjunction between their prized moral and ethical codes and their sullied professional realities.[140]

The case of Dr Edward Vaughn Hyde Kenealy is one of the most revealing and well-documented cases of the bar's disciplinary process, both in the Inns' records and in the press. This case demonstrates that the importance that the profession placed on maintaining a positive public image and determines the significance of having a fair and efficient disciplinary process in upholding this public image. It provided the public with a substantial image of an individual who had disgraced his profession through his public actions in a very public *cause célèbre.* All of this was recounted in the press and a significant public image was transmitted through the reporting of the trial and the subsequent disciplinary consequences.

Kenealy was lead counsel in one of the most sensational cases of the nineteenth century, the trial of the Tichborne claimant. The case of the Tichborne claimant and Kenealy's subsequent trial for perjury was an immense *cause célèbre* and the press covered both trials extensively. The case divided the country, with some believing that the claimant was the real Roger Tichborne but others believing he was an imposter, Arthur Orton.

However, it is argued that the conduct of Dr Kenealy during the trial and his subsequent public behaviour that caused the most significant controversy in the press and the public consciousness. Following the trial, Kenealy used his position as editor of *The Englishman* to attack the bar and the judiciary.[141] Master

[140] See generally, WW Pue and D Sugarman, 'Introduction' in WW Pue and D Sugarman (eds), *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Hart Publishing 2003)
[141] 'Dr Kenealy', *Daily News,* 27 Nov 1874; GIA, DIS/2/17, Dr Kenealy

Holker, who was Solicitor-General and one of the pension committee members for Gray's Inn, remarked that: "Dr Kenealy being the editor of the newspaper called the *Englishman,* replete as it still is with libels of the grossest character, is unfit to be a member of this honourable society or the public bar."[142] Kenealy was disbarred for his criticisms of the bar and the judiciary, and for his public professional misconduct. He was subsequently removed from the list of QCs on the recommendation of the Lord Chancellor, who was deeply disturbed by Kenealy's disregard and disrespect for his profession.[143]

His conduct during the trial broke a number of rules of etiquette and was heavily criticised as ungentlemanly. Kenealy was described as conducting the defence of the Tichborne claimant with "violent partisanship" [144] making "groundless imputations against witnesses and various Roman Catholic institutions".[145] However, the conduct that he was most severely criticised for was his attitude towards the bench. He "treated the bench with contempt"[146] and deliberately protracted the trial making it "the longest trial at *nisi prius* on record".[147] His misconduct towards the bench was made the more severe since the presiding judge was the Lord Chief Justice of England, Sir Alexander Cockburn. His complete lack of respect for his own profession and the judiciary demonstrates Kenealy as a clear instigator of conflict.

His protraction of the trial and utter contempt for witnesses also perpetuates this motif of the lawyer as a provocateur of conflict and contention. His manner of address in the case displays this particular individual as having a

[142] See GIA, DIS/2/17, Dr Kenealy; *Lloyd's Weekly Newspaper,* 6 Dec 1874
[143] 'The Benchers and Dr Kenealy', *Lloyd's Weekly Newspaper,* 29 Nov 1874
[144] Hamilton, 'Kenealy, Edward Vaughan Hyde (1819–1880)'
[145] *Ibid*
[146] *Ibid*
[147] *Ibid*

clear disregard for professional and social norms and customs. This also contributed to the existing stereotype of the lawyer as a ferocious predator. Kenealy embodied many of the characteristics of the archetypal villain in popular culture, contravening not only his own professional codes, but the laws and morals of wider society. Conversely, it could be argued that Kenealy may have been trying to challenge the judiciary, the bar, and the status quo, particularly as the Tichborne claimant had been such a divisive case in English legal history. However, it seems that his violent attacks were borne more from indignation and anti-Catholic sentiment than a desire for 'justice.' Nevertheless, this is unclear as his violent outbursts are not included in the texts, possibly due to their profane nature.

During his disciplinary hearing at the Pension Committee of Gray's Inn, Kenealy was accused of eight separate counts of misconduct. He unjustifiably accused the Tichborne family of a conspiracy to ruin the defendant by exercising undue influence and committing bribery to induce witnesses to give false testimony.[148] He also unjustifiably accused several witnesses for the prosecution of perjury, induced in some cases by bribery and in one case by the compounding of a felony.[149] He accused the prosecution of inventing the idea that Sir Roger Tichborne had a tattoo to produce the destruction of the defence.[150] This was the key evidence that proved that Arthur Orton was not Sir Roger Tichborne in the civil suit for his possible inheritance. During the case, the prosecution claimed that the missing heir to the Tichborne fortune, the individual that Orton was trying to claim was himself had a hidden tattoo, but Orton did not.

[148] GIA, DIS/1/2/17, Dr Edward Vaughn Hyde Kenealy
[149] *Ibid*
[150] *Ibid*

Furthermore, he unjustifiably accused the authorities in the College of Surgeons of abominable and immoral conduct.[151] Kenealy was also accused of unjustifiably attacking the character of several other persons and accusing persons of putting forward fake evidence and withholding the real evidence. He attacked the judges in a letter to *The Standard*[152] as well as during the course of the trial.[153] However, his substantial charges were suspended and instead Kenealy was examined on the articles he had published in *The Englishman* attacking his profession.[154] The articles criticised his profession and his regulatory body, the Inns of Court, and were considered more significant than the internal misconduct for which Dr Kenealy was originally called before the committee. By examining him on the articles he published, it is clear that the public impression of barristers was of paramount concern to the regulatory body.

The disciplinary cases concerning Dr Kenealy provide a noteworthy point to contrast the various types of misconduct found in the profession of the nineteenth century. It demonstrates the bar disciplining a barrister for his misconduct in the press and in the public sphere rather than his actual legal misconduct. Importantly, it demonstrates how integrated the legal profession and the press were. The bar was concerned about its public image being damaged; and so Kenealy's behaviour in the press was considered detrimental to the aims of the profession for the following reasons.

Foremost, the Inns of Court viewed misconduct in the public sphere as far worse than that in the internal spheres because when the public was privy to

[151] GIA, DIS/1/2/17, Dr Edward Vaughn Hyde Kenealy
[152] *Ibid*; see ' Kenealy on the Tichborne Trial', *The Standard,* 9 Mar 1874
[153] GIA, DIS/1/2/17, Dr Edward Vaughn Hyde Kenealy
[154] See 'The Benchers of Gray's Inn and Dr Kenealy', *Daily News,* 3 Dec 1874

misconduct, it became a topic that was widely discussed in the press. The press reported many of the inquiries heard before the disciplinary committees of the Inns of Court. However, internal misconduct, such as acting as an attorney or acting without one, was far less interesting to the press than reports of a barrister imprisoned or publicly attacking the establishment, as Kenealy did.[155]

The Inns of Court recognised that a profession could be broken when one of its own members took such a negative view of it, and they understood the power of the press in controlling and forming public opinion. The barrister's profession prized itself on honour and professionalism and to attack his profession in such a public forum was abhorrent. Kenealy attempted to cause damage to the profession's structures through influencing public opinion. This criticism by a high-ranking barrister as (Kenealy was a QC) undermined the positive public image of the profession and encouraged the public, via the press, to examine and discuss the bar. It is clear that the press was a vital source in constructing public opinion and the Inns of Court knew the importance of a professional, respectful, and positive public image through the press.

The disciplinary affairs of Dr Kenealy, which were reported extensively, demonstrates that the press supported the process of self-regulated discipline in the Inns of Court. *Reynolds's Newspaper* highlighted that the conduct of Dr Kenealy "had rendered it impossible for the benchers of his Inn to act otherwise than they have done".[156] Even before Dr Kenealy had been called before the benchers of Gray's Inn,[157] the press publicly stated that if the accusations made

[155] 'Dr Kenealy on the Tichborne Trial', *The Standard,* 9 Mar 1874
[156] 'Dr Kenealy', *Reynolds's Newspaper,* 13 Dec 1874
[157] GIA, DIS/1/2/17, Dr Edward Vaughn Hyde Kenealy

by the judges were true, he ought to be disbarred.[158] *The Liverpool Mercury* also discussed the disbarring of Edwin James and Dr Kenealy, claiming "both are melancholy examples of the ways in which clever men may go wrong"[159] clearly demonstrating how the press supported the decision made by the benchers. *The Pall Mall Gazette* also called for him "to be tried" [160] as the letter he wrote to *The Standard* confirmed rather than weakened the charges against him.[161] Once the benchers of Gray's Inn disbarred Dr Kenealy, the press observed "that it was impossible that the benchers, with such facts as were before them uncontradicted, could come to any other decision".[162] This was also affirmed in *The Essex Standard,* which stated that "the general feeling appears to be that he has not been more severely dealt with than such conduct as that exhibited by him deserved". [163] The *Daily News* also supported the decision of the benchers, making it clear that "Dr Kenealy has scarcely anything to urge against it"[164] and continued, "Dr Kenealy has deprived himself of all ground for sympathy".[165] This clearly demonstrated the press affirming the decision of the benchers of Gray's Inn and confirmed that they had reached an adequate judgment on the evidence before them. This transmitted a clear public image of efficient and satisfactory regulation, especially in light of the severity of Kenealy's indiscretions. This was a direct contrast to the questions raised around the disbarring of Edwin James that was discussed previously.

[158] 'The Tichborne Trial', *Pall Mall Gazette,* 2 Mar 1874
[159] 'Edwin James and Dr Kenealy', *Liverpool Mercury,* 4 Dec 1874
[160] 'The Bench and the Bar', *Pall Mall Gazette*, 12 Mar 1874
[161] *Ibid*
[162] 'Epitome of Opinion in the Morning Journals', *Pall Mall Gazette,* 3 Dec 1874
[163] 'Dr Kenealy', *The Essex Standard, West Suffolk Gazette and Eastern Counties Advertiser,* 4 Dec 1874
[164] 'The Benchers of Gray's Inn', *Daily News,* 3 Dec 1874
[165] *Ibid*

Furthermore, the press also called for a more severe treatment of Kenealy, suggesting he should face criminal or civil sanctions for his behaviour. *The Pall Mall Gazette,* echoing *The Times*, stated "the only question indeed, which might seem at first open to consideration is whether the offences committed did not demand a more severe treatment, and whether Dr Kenealy ought not to have been criminally indicted for malicious libel".[166] It is clear that the press thought the disbarring of Dr Kenealy was not an adequate punishment for his internal and public professional misconduct, and that the Inns should refer the case for consideration to be pursued for criminal sanctions or a number of civil suits. This transmitted a severely negative image of Kenealy and even suggested that the profession was lacking in some substantial power. However, the majority of press reporting praised the disbarring of Kenealy by his Inn of Court, clearly accentuating his status as a professional villain.

Even where Kenealy's disciplinary affair was not reported in extensive detail, the press had legal intelligence in the nineteenth century that allowed them to obtain details and transmit them to a wide audience. This led to an extensive public image being broadcast through the press. The regional press reported the Kenealy case as an "intelligence" information item or as detailed but functional reporting.[167] It clearly emphasised how much of a press *cause célèbre* the Tichborne case had been and the widespread interest in the resolution of Dr Kenealy's unprofessional behaviour.

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[166] *Ibid*

[167] Reports on the disbarment of Dr Kenealy in *Birmingham Daily Post,* 3 Dec 1874; *Cheshire Observer,* 5 Dec 1874; *Hampshire Telegraph and Sussex Observer*, 5 Dec 1874; *Northern Echo,* 3 Dec 1874; *The Essex Standard, West Suffolk, and Eastern Counties' Advertiser,* 4 Dec 1874; *The Lancaster Gazette, and General Advertiser for Lancashire,* 5 Dec 1874; *The Leeds Mercury,* 3 Dec 1874; *The Morning Post,* 3 Dec 1874; *The York Herald,* 4 Dec 1874; *Western Mail,* 3 Dec 1874

Similarly, the decisions to disbar Frederick Firth Banbury,[168] Charles Broadbelt-Claydon[169] and Henri de Tourville[170] were reported in this intelligence style across the whole of the country. The consistent reporting, regardless of the home location of the barrister, demonstrated the importance of accurate reportage and suggests an element of standardised reporting across the whole country. This standardised representation of the disciplinary procedure of the Inns of Court provides an insight into the conventions of press reporting that emerged during the growth of the press early in the nineteenth century. The whole country was able to read about the bar effectively regulating itself without the context of the wider debates we see in the more mainstream papers based in and around London. This suggests that more individuals were familiar with formal, standardised reporting found through legal intelligence.

The press reporting of these cases was accurate when compared to the Inn records and although reported in a simple manner, the press still represented the legal profession as regulating itself efficiently by disbarring barristers that had brought the profession into disrepute. Furthermore, the cases of Frederick Firth Banbury,[171] Charles Broadbelt-Claydon,[172] and Henri de Tourville[173] portrayed

[168] 'The Benchers of Lincoln's Inn', *Birmingham Daily Post,* 19 Jan 1878; *The Illustrated Police News,* 2 Feb 1878; *The Leeds Mercury*, 19 Jan 1878; 'A Barrister Disbarred', *Western Mail*, 19 Jan 1878

[169] 'A Barrister Disbarred for Breach of Professional Etiquette', *Reynolds's Newspaper,* 9 Feb 1862; *Daily News,* 4 Feb 1862; *Trewman's Exeter Flying Post,* 5 Feb 1862; 'A Wolverhampton Barrister Disbarred', The *Bradford Observer,* 6 Feb 1862; 'Mr Claydon', *Liverpool Mercury,* 6 Feb 1862

[170] 'Henri de Tourville', *Daily News,* 26 Jun 1878; *The Penny Illustrated Paper*, 29 June 1878; *Pall Mall Gazette,* 25 Jun 1878; *Birmingham Daily Post,* 26 Jun 1878; *Liverpool Mercury,* 27 Jun 1878; *Manchester Times*, 29 Jun 1878; *The Hampshire Advertiser,* 29 Jun 1878; 'Town and Country Talk', *Lloyd's Weekly Newspaper*, 30 Jun 1878

[171] 'The Benchers of Lincoln's Inn', *Birmingham Daily Post,* 19 Jan 1878; *The Illustrated Police News,* 2 Feb 1878; *The Leeds Mercury*, 19 Jan 1878; 'A Barrister Disbarred', *Western Mail*, 19 Jan 1878

[172] 'A Barrister Disbarred for Breach of Professional Etiquette', *Reynolds's Newspaper,* 9 Feb 1862; *Daily News,* 4 Feb 1862; *Trewman's Exeter Flying Post,* 5 Feb 1862; 'A Wolverhampton

these barristers as considerable rogues due to the nature of their crimes. They represented to the public an image of immoral characters committing illegal and depraved acts.

Another example of a barrister who was disbarred for public professional misconduct was Charles Wray Lewis. Lewis was a barrister who contravened etiquette on a number of occasions during the nineteenth century and who was brought before the benchers on issues of public and internal professional misconduct. Lewis was originally brought before the bench as a student for improperly holding chambers in Gray's Inn.[174] Lewis was not disbarred, but was warned about his ungentlemanly conduct. However, in 1866 he was brought before the bar again for unprofessional conduct and breaching professional etiquette;[175] he had brought a claim of slander against his brother, Ernest Lewis an army officer, but Charles Wray Lewis was defeated.

The case arose following a heated conversation between Lewis and his brother, which was witnessed by a number of persons, including his landlady. However, the landlady denied that Ernest Lewis ever said such words and the court found for the defendant.[176] The judge presiding, Willes J, was unhappy with the conduct of Charles Lewis and, following the decision of the jury, he announced to the court:

> I think that in this case I have a duty to perform – a very painful duty. I shall consult with my brother judges, and if they agree with me I shall

Barrister Disbarred', The *Bradford Observer,* 6 Feb 1862; 'Mr Claydon', *Liverpool Mercury,* 6 Feb 1862

[173] 'Henri de Tourville', *Daily News,* 26 Jun 1878; *The Penny Illustrated Paper*, 29 June 1878; *Pall Mall Gazette,* 25 Jun 1878; *Birmingham Daily Post,* 26 Jun 1878; *Liverpool Mercury,* 27 Jun 1878; *Manchester Times*, 29 Jun 1878; *The Hampshire Advertiser,* 29 Jun 1878; 'Town and Country Talk', *Lloyd's Weekly Newspaper*, 30 Jun 1878

[174] GIA, DIS/1/2/9, Charles Wray Lewis, Complaint about Chambers

[175] GIA, DIS/1/2/14, Charles Wray Lewis, Disbarred

[176] 'Extraordinary Charge Against a Barrister', *The Caledonian Mercury,* 24 Apr 1866

> forward a copy of my notes to the Inn of Court to which Charles Wray Lewis belongs.[177]

The judge's notes were forwarded to the Inn of Court and his conduct was investigated.[178] This again emphasises the significance of peer regulation and the importance of judges and fellow barristers in enforcing rules of etiquette and informing the Inns of incidents of misconduct or unprofessional behaviour. Following the investigation by the benchers, Charles Lewis was subsequently disbarred for his indiscretion by the Pension Committee of Gray's Inn.[179] Even after his disbarring, Lewis was accused of further misconduct by attempting to continue practising law through "a disgraceful kind of business, of representing himself to be a barrister acting as a solicitor to recover debts".[180] This was brought to public attention after a barrister, Mr F. H. Lewis, objected to pamphlets that had been distributed in the region of Bow Street as they contravened etiquette and suggested that it was Charles Lewis who was offering this "disgraceful"[181] service. It was subsequently found to be a mistake and the pamphlets had been quickly withdrawn following the discovery of the mistake.

This story does suggest that Charles Lewis was still attempting to practise, keeping law office around Bow Street.[182] This indicates that even if a barrister was disbarred, he could continue to practice unregistered and unaffiliated to the Law Society as solicitor or attorney and as one of the "Pettyfoggers and Vipers of the Commonwealth".[183] These unqualified and unaffiliated lawyers disgraced the

[177] *Ibid*
[178] GIA, DIS/1/2/14, Charles Wray Lewis, Disbarred
[179] *Ibid*
[180] 'The Police Courts', *Daily News,* 25 Sept 1867
[181] *Ibid*
[182] *Ibid*
[183] See generally, CW Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Profession in Early Modern England,* (CUP 1986)

Victorian profession and continually damaged the reputation of legal services in nineteenth century England.

Although organisations such as the Inns of Court and the Law Society attempted to regulate and administer entry to the profession and therefore ensure (in some respects) the quality of legal services, there were still those individuals possessing some legal training, no matter how rudimentary, who could pass themselves off as qualified legal professionals providing cheap services. Scholars have suggested that these "pettifoggers and vipers"[184] were restricted by the introduction of more formalised examinations (as discussed in chapter four) and the creation and professionalisation of the regulatory bodies in the first half of the nineteenth century.

The growth and development of the Inns of Court and the foundation of the Law Society attempted to monopolise access to legal services. This suggests that it was still a stark reality of professional practise in Victorian England that lawyers, especially attorneys, could practise unregistered and that barristers who had been disbarred could provide cheaper legal advice as a way of maintaining an income. These pettifoggers fundamentally damaged the reputation of lawyers through their unregistered and unqualified practice. It also transmitted to the public the image of the 'lawyer' more generally as an incompetent figure who is under-qualified and a charlatan to the profession – even if they were using experience and knowledge from years at the bar.

Those barristers who committed criminal acts constructed a public image of the lawyer as an unethical betrayer of trust. An example is Frederick Robert

[184] *Ibid*

Firth Banbury, who was a special pleader of the Midland Circuit – Coventry, Warwick, Birmingham and Middlesex sessions.[185] He was convicted of a misdemeanour and of bigamy on 17 September 1877,[186] and was disbarred by the Lincoln's Inn Special Meeting of Parliament on 11 January 1878.[187] It was ordered that his call to the bar be vacated, and he was subsequently disbarred and expelled from the society.[188] The press had reported his conviction, which would have instigated the disciplinary action at his Inn of Court and his disbarring was reported in a simple intelligence style in order to inform the public of the bar's decision.[189]

In another instance, Hugh Weightman was disbarred following his conviction for a crime and his case identifies two features of disciplinary procedure in the Inns of Court. The Inn's procedure was clearly thorough because he had been convicted of a crime and served his sentence, yet the Inn Parliament still examined his case and allowed the barrister to defend his actions. Weightman was arrested in 1872 for stealing books from the Inner Temple Library. He pleaded that his reason for stealing books was his abject poverty. However, he was still convicted at the central criminal court and sentenced to serve sixth months hard labour.[190]

Following his release, Weightman was examined by the Inner Temple Inn Parliament and his case thoroughly investigated, the proceedings lasting three

[185] 'The Benchers of Lincoln's Inn', *Birmingham Daily Post*, 19 Jan 1878
[186] *R v. Banbury* (1877) Central Crim Court
[187] See LIA, BB, vol 34 (1875–1879), re Frederick Robert Firth Banbury, 310–311
[188] *Ibid*
[189] 'The Benchers of Lincoln's Inn', *Birmingham Daily Post,* 19 Jan 1878; *The Illustrated Police News*, 2 Feb 1878; *The Leeds Mercury,* 19 Jan 1878; 'A Barrister Disbarred', *Western Mail,* 19 Jan 1878
[190] See ITA, ITA-DIS/1/W2, Hugh Weightman

days.[191] This case shows the benchers of Inner Temple allowing Weightman to present his case after he completed his sentence in order to allow him a fair hearing. The disciplinary case of Hugh Weightman as undertaken by Inner Temple was reported in the Inner Temple records and the Black Books of Lincoln's Inn. In contrast, the disciplinary process of Henri de Tourville, a murderer, was not recorded in the Middle Temple archive disciplinary papers but his order to be disbarred does appear in the Black Books of Lincoln's Inn.

The press reported these disbarrings and their related explanations, which exemplified the relationship between the press and the Inns of Court. The press facilitated the process of punishment for offending barristers. As a result, the bar responded by expelling the practising villains in order to demonstrate the effective regulation of the bar. It is quite clear that a symbiotic relationship existed between the bar and the press, and in the nineteenth century, it is arguable that the press helped prove the regulatory success of the Inns of Court.

It is further argued that the press is so instrumental in the reputation of the bar that barristers convicted of really serious crimes were disbarred without a defence in an attempt to maintain the bar's public image. Henri de Tourville was one such barrister. Tourville was convicted in Austria of murdering his wife and, although he escaped the noose, he was transported to serve twenty years penal servitude.[192] He was removed from the list of members of the Middle Temple and disbarred without a hearing. Tourville was not entitled to a hearing, not only because being transported made it impractical, but also due to the heinous nature of his crime. The bar expected that distancing itself from criminals would

[191] *Ibid;* 'Disbarred – Mr Weightman', *Lloyd's Weekly Newspaper,* 9 Aug 1874
[192] 'Henri de Tourville', *Daily News,* 26 Jun 1878

display to the public, via the press, its efficient and effective self-regulation, but also acknowledged that the bar viewed crime as a crime. Thus, the bar was willing to use the press to publicly discipline its own members in order to show its moral character. However, this lead to the barrister's profession developing a negative public image.

Internal Professional Misconduct

Issues of internal professional misconduct involved a barrister contravening his professional etiquette and regulatory codes. This represented the barrister as breaking his own rules and internalised customs, however, the public image that was created from such disciplinary cases was not as profound in comparison to the issues of public professional misconduct. The public nature of the aforementioned cases allowed the press to transmit a complex set of themes and motifs to represent these villains. However, the representation of barristers violating internal professional misconduct was not reported as extensively precisely due to its internal nature. Furthermore, due to the unwritten nature of barristers' etiquette, the public would likely not have understood the individual rules. Therefore, it is likely that the press did not believe it was important or worthwhile to convey individual details of disciplinary cases concerning internal professional misconduct to the public.

It was discussed earlier that the bar was the superior legal profession in England and the bar's unwritten rules of etiquette were intended to maintain this superiority. For instance, barristers could not act in any work befitting a lower legal professional, and could not undertake work without being briefed by an attorney or a solicitor. Any barrister found undertaking the work of an attorney or solicitor was disciplined severely in order to maintain this superiority. Henry Hugh

Pyke was an attorney between 1830 and 1836 but was struck from the attorney's roll at his own request in 1836.[193] He had joined Gray's Inn in 1835, worked in Oxford for 18 months and as an attorney for two years before being called to the bar in 1838.[194] Following his call, he joined chambers with a Mr Eden and an attorney called Mr Dickinson. Pyke and Dickinson shared Dickinson's business for six years, and Pyke introduced business to Dickinson and shared the profits with him.[195] Pyke was believed to have introduced up to 400 actions to Dickinson, and they both shared the fees,[196] which was against the bar's etiquette. Barristers were not permitted to act as both an attorney and a barrister. Pyke breached internal etiquette and debased the profession by introducing work to an attorney by simply acting as a clerk for Dickinson.

The Pension Committee of Gray's Inn investigated Pyke on four incidents of misconduct. First, Mr Pyke was a student for the bar and within the two years before he was called to the bar he was still practising as an attorney in Oxford, despite being enrolled as a member of Gray's Inn and being removed from the roll of attorneys.[197] Second, his agreement with Dickinson to share profits as an attorney was entered into very shortly before his call to the bar was submitted.[198] Third, this agreement had continued for six years, until 1840.[199] Finally, when Pyke received briefs from Dickinson's office when acting as a barrister, he only earned half the fees marked on the brief due to the shared profit arrangement that Pyke had with Dickinson.[200] The Pension Committee saw this blatant

[193] GIA, DIS/2/5, HH Pyke
[194] *Ibid*
[195] *Ibid*
[196] *Ibid*
[197] *Ibid*
[198] *Ibid*
[199] *Ibid*
[200] GIA, DIS/2/5, HH Pyke

disregard for professional etiquette as unacceptable and Pyke's call to the bar was vacated, and he was disbarred and expelled from the society on 11 December 1844. However, none of this internal misconduct was reported in the press of the period. This case of a barrister demonstrating a disregard for internal etiquette was clearly considered uninteresting to the public and demonstrates the selective nature of the press in choosing and censoring their reporting of disciplinary cases. This provides evidence of the power of the press in constructing a public image of the bar during this period, and their ability to select stories that editors deemed of relevance to the public interest.

This was very important in the representation of the bar's regulatory affairs as it shows the press selecting issues they deemed to be of public interest. But it is also a much more nuanced issue as it could suggest the press selecting an image of the bar that they wanted to portray. The public could see a case of internal etiquette such as this as villainous or it could also be viewed as trivial. All Pyke did was secure business for his chambers and colleagues. This could demonstrate the press selecting stories they wished to fit their news agenda. While this may not be universally the case in such matters, it dos suggest at least some level of editorial decision making in portraying the bar's regulation.

However, the press did report Henry Hugh Pyke's attempt to appeal against the decision of the benchers of his Inns of Court in June 1845 by taking his case to a committee of judges based in Serjeant's Inn.[201] This case provided the public with information regarding the appeals structure within the disciplinary processes of the Inns of Court. The appeal was heard at Serjeant's Inn Hall before a body of eleven judges who unanimously agreed to uphold the decision

[201] 'Serjeants' Inn Hall', *The Standard*, 16 Jun 1845; *The Morning Chronicle,* 17 Jun 1845

of Gray's Inn concerning the case of Henry Hugh Pyke.[202] This provides further evidence that the disciplinary process of the Inns of Court did have an appeals structure in order to allow a barrister to seek further opinion if he believed his investigation had not been undertaken sufficiently and fairly. It demonstrated the administration of the disciplinary procedure of barristers as being adequately established and sufficiently effective, allowing an appeals procedure to prevent bias and undue influence in investigation. In terms of bias, it is important to note that the judges in the Serjeants Inn also sat in the Inns of Court. However, the committee was formed of members who would not be from the barrister's own Inn and thus provided an unbiased opinion on the facts before them. When analysed alongside the decision to not report the case itself, it can be argued that the press clearly wished to portray an image of the bar as having a sophisticated system of regulation, including an appeals mechanism. This suggests that at this point in time, the press may have been trying to convey a more positive image of the bar's regulatory structures.

Furthermore, Pyke was only readmitted to the legal profession as an attorney in 1865 following a long appeal process culminating in an appeal before Cockburn LCJ, Blackburn J, and Shee J in the Court of Queen's Bench. This was reported in the press of the period, and *The Pall Mall Gazette* said that the court found he had done enough "to atone for any professional misconduct of which he may have been guilty".[203] The press also reported that his appeal was granted. This indicated to the public that an appeal against the decisions of legal regulatory bodies such as the Inns of Court could be successful and were also taken to the formal courts for dispute resolution. However, the process was

[202] *Ibid*
[203] 'Law and Police', *Pall Mall Gazette,* 15 Jun 1865

clearly long and drawn out. In the case of Henry Hugh Pyke twenty years passed before he was allowed to re-enter the legal profession. The phrase used by the judges that Pyke had done enough to "atone"[204] for his professional misconduct also suggests that the time spent being unable to practise was seen as punishment by the profession, but was not necessarily indefinite. A case such as this, in which a lawyer was successful in an appeal, was rare. The reason behind the success of Pyke's appeal may be that he was trying to be readmitted as an attorney and not as a barrister, as well as the time he had waited. The situation would have been very different had he been trying to be admitted back into the barrister's profession.

Another example was Charles Broadbelt-Claydon. He was a barrister who practised in the County Court and Petty Sessions Courts in Wolverhampton and who, whilst practising, had taken cases without the customary instruction from an attorney.[205] This clearly contravened etiquette and following a statement of the case sent by the judge[206] to the benchers of Lincoln's Inn, a Special Meeting of Parliament examined his case and Claydon was subsequently disbarred.[207] He appealed against the decision in 1863 but the decision of the benchers was upheld and his appeal was dismissed.[208] The result of this disciplinary process was reported in the press in the intelligence style, and although the breach of this etiquette rule would not have been a major concern of the public, it demonstrated the profession regulating itself efficiently. It also displayed to the public the

[204] *Ibid*
[205] *Ibid*
[206] 'A Barrister Disbarred for a Breach of Professional Etiquette', *Daily News,* 4 Feb 1862
[207] LIA, BB, vol. 29 (1860–1862), re Charles Broadbelt-Claydon, disbarred; 'A Barrister Disbarred for a Breach of Professional Etiquette', *Daily News,* 4 Feb 1862; see also GIA, DIS/1/2, Charles Broadbelt-Claydon Proceedings before the Benchers of Lincoln's Inn (fully reported in the Gray's Inn Archive displaying further the close relationship between the Inns of Court)
[208] LIA, BB, vol. 30 (1862–1865), re "Charles Broadbelt-Claydon appeal against the decision, dismissed"

existence of an appeal structure, emphasising the professionalism of the bar's regulatory mechanisms.

Claydon's case further emphasised the importance of peer regulation of barristers and recognised how judges within the profession were responsible for both enforcing etiquette and informing the Inns when they believed etiquette had been breached. This also demonstrated the bar efficiently regulating itself and this was depicted in the press. The judge in this case sent a letter to the Inn informing them of Claydon's suspected breach of etiquette and encouraging them to examine his conduct by a Special Meeting of Parliament.[209] This was reported by *The Daily News* and identifies the importance of peer regulation of barristers' conduct in court as the newspaper reports the judge, A. M. Skinner QC, questioning Claydon on this issue.[210] However, the selective press reporting of this case further emphasises how the issues of internal misconduct may not have been considered to be of interest to the public or that the press did not deem this to be within the image they want to represent of the bar.

Summary and Reflections

This chapter has examined the textual representation of the bar's regulatory affairs in the press of the nineteenth century. Drawing upon Inn records, it specifically examined in detail how the bar regulated itself in order to make an original contribution to the history of the bar. It also explained why the regulatory affairs of the bar were popularised in the press drawing upon the theoretical and historical context outlined in chapter one, and the increasing popularisation of the law in the preceding chapters. Following this, the

[209] 'A Barrister Disbarred for a Breach of Professional Etiquette', *Daily News,* 4 Feb 1862
[210] *Ibid*

representation of the bar's regulation and the individual barristers disciplined were analysed and presented.

The representation of these regulatory issues was varied and nuanced. It is clear that there are distinct representations of the individual barristers within the regulatory process, but also of the bar's processes itself. Individual barristers were often represented as villains, fully deserving of Inn discipline. This was largely true of cases of financial misconduct and public professional misconduct. Individuals that misappropriated trust funds, extorted money from witnesses or defendants, or committed crimes were depicted as money-grabbing, untrustworthy, unprofessional, liars and cheats. Whereas the representation of internal professional misconduct were far less widely reported in the press, and often represented the barrister as being the victim of harsh etiquette rules. Some depictions of disbarred barristers may also have elicited sympathy from the public. This nuanced representation echoes the discussions in earlier chapters of this thesis and demonstrates another part of the bars professional practice that portrayed the barrister as a villain.

Furthermore, the representation of the bar as a regulatory organisation is also illustrated in a nuanced manner. The bar is largely represented as effectively regulating its members. The case of Dr Kenealy and his disbarment was depicted as being an appropriate outcome for his flagrant breaches of etiquette, whereas the disbarment of Edwin James was questioned. Particularly, the press questioned the ability of the bar to deprive a man of his livelihood without criminal conviction and deprived of open justice in the closed tribunals of the Inn Parliaments and Committees. While it is clear from the historical records that the regulation of the bar was undertaken in a formal and consistent manner, to the

public this may have seemed as opposed to the changing ideology of nineteenth century society and as contrary to fundamental principles of jurisprudence. Yet, there are numerous occasions when the press depicted the system of peer regulation as effective and formal aspects of appeals to Inn decisions.

Finally, an additional reflection on the material that arises in this chapter concerns the ability of the press to portray the particular message intended by the paper. While the press is largely factual in its representation of disciplinary cases and outcomes, there are limited are occasions when the press chose to represent particular cases and not others, suggesting that the press selected cases to forward a specific agenda or convey a particular message. There is evidence of this discussed above but it is limited. It could be deemed to be the press exercising editorial control over subjects they did not deem to be relevant to the public or the press representing a particular image of the bar. Specifically, limiting the impression of the harsh nature of professional discipline. However, this may be a potential avenue for future research.

Conclusions - The Popular Image of the Barrister in the Nineteenth Century

Conclusions

The aim of this thesis has been to critically examine the public image of the bar in the popular press of the nineteenth century in order to further academic understandings of the bar's history in the context of their relationship with the press and the public and their popular public image. This aim was structured around four research questions, the findings of which will now be presented alongside the theoretical and scholarly implications of these findings for future research.

It was outlined in chapter one that during the period of investigation, the press experienced exceptional growth and unprecedented technical advancement as a result of the industrial revolution and socio-economic changes in society. The press of the period clearly conforms to established definitions of a text that represents the popular culture of the nineteenth century and should therefore be read as a cultural text. The mass characteristics of the press during the period as defined by quantitative equation and by not being restricted to the upper classes, clearly conform to the definition of popular culture that was established in chapter 1. It was by far the most quantitatively significant source of popular culture, having a national reach, with much more cultural penetration than literature or theatre alone. The growth of the press in the nineteenth century truly was the wonder of the epoch, seeing markets grow in all corners of the UK. Newspapers and periodicals were founded to cater to all communities, tastes, political inclinations and class backgrounds. However, the press of the nineteenth century was also a cross-class phenomenon. While there were publications that had specific intended audiences or readerships within a particular socio-economic class, they also had cross-class reach. Newspapers such as *Lloyd's*

Weekly Newspaper had a predominantly working class readership, but also had readers in the middle and upper classes. The cross-class readerships of certain press publications, combined with regional and specialist newspapers meant that the press of the nineteenth century was a medium as ubiquitous as television in contemporary society, and this distinct quantitative impact affected all of society in ways unthinkable in the preceding century. This quantitative impact and cross-class readership meant that the press penetrated all strata of society and the effect of such quantitative equation meant a diverse and nuanced press culture emerged.

Victorian commentators and modern scholars have also highlighted the influence of the press as a signifier and constructor of cultural opinion, furthering the argument that the press formed a substantial text of nineteenth century popular culture and can, therefore, be a significant source for examining the messages transmitted within the popular culture of the period. While the sheer vast amount of material does create problems, the methodology of this thesis has sought to demonstrate how certain samples can be drawn to examine facets of nineteenth century culture, particularly where it penetrated multiple strata of society. History has always focused on the elite, the propertied or the ruling classes, those deemed to have a stake in society. However, the influence of the press on many individuals in society, and by consequence cultural opinion, means that the press can act as a window on to the lived experiences of society and a measure of cultural feeling beyond the more-commonly documented cultures of the elite. This work has examined the representations of an important institution to a broad spectrum of society. That is not to say that this work truly establishes the opinion of the public *en masse* towards the bar, but it has gone

some way in examining the image projected through press reporting and how this could have, and arguably did, influence the image of the profession in the public mind.

The press did not just undergo a quantitative change but also became a richer, fuller source, going through a period of substantial qualitative change during the nineteenth century. The growth of the press, intensification of competition and the accompanying rise of professional journalists saw reporting become more diverse, multifaceted and, at times, narrative-driven. Therefore, it was inevitable that more nuanced images and more complex tropes emerged in the press of the nineteenth century compared to the cultural texts of the preceding periods. This was because press sources presented a whole spectrum of experience and representation, from the factual to fictional, actuality to satire, and authentic to the allegorical. The press, particularly the satirical press, drew upon stereotypes in order to resonate with their readership, while at the same time reinforcing some of the representations of lawyers that were evident in pre-nineteenth century cultural texts. But the press *en masse* also challenged stereotypes with representations of reality that created new images, signs and codes that came to represent various public actors, organisations and institutions. It is these differing qualitative characteristics of the press that created these novel and nuanced representations.

It has been evidenced throughout this thesis that one such institution that was heavily represented in the press was the law and barristers, the latter of which were truly popularised through the press of the period. This is demonstrated throughout the thesis chapters, and it has been established how

the press popularised various aspects of the bar's existence. This was in some part due to nineteenth-century society's macabre interest in the legal process, particularly crime and punishment. The popularity of newspapers such as the *Illustrated Crime News* and the production of cheap *Penny Dreadfuls,* the attraction of Madame Tussaud's Chamber of Horrors and the emergence of sideshows that exposed criminal behaviour, all attest to the Victorian's fascination with, as Dickens put it, societies "dark and dreadful interest."[1] These popular 'dark pastimes'[2] replaced the gallows as a cultural phenomenon, and throughout the mid to late nineteenth century the press became the principal site through which members of society engaged with the reality of criminal behaviour, the legal process and retribution. But this interest extended further. The public of the nineteenth century were also interested in civil disputes; the press drew upon the narrative qualities of the legal process and the courtroom as a site of conflict in order to engage the public, and the public were able to substitute the more direct participation that they had enjoyed in earlier centuries with vicarious press experience of the legal process and the administration of justice.

The public were more than just titillated by cases, but possessed a cultural predisposition and innate yearning to witness justice and observe retribution. The press of the nineteenth century allowed individual members of the public to participate vicariously in the legal process, particularly in the trial and punishment of criminals, even if they could not attend court or witness executions after they moved behind prison walls. The public were also able to experience civil trials through the press. The regular reportage of cases meant that people across the

[1] C Dickens, *Selected Letters of Charles Dickens.* D Paroissien. ed. (Twayne Publishers 1985) 212
[2] *Ibid*

country could experience the legal process, whether it was cases that affected them close to home or from other parts of England and Wales. The administration of justice in Britain had always been an experiential activity, based within the community. Whether this was the resolving of disputes in the moot courts of the Anglo-Saxon period, the administration of law in the Manorial courts, or the assizes and public executions of the Early Modern and Georgian period, the process of justice and displays of state power had always been part of the local community and the public had always had a sense of ownership, or at least participation. But due to the shift in society from an agrarian to urbanised populace during the industrial revolution and the growth of the industrial working class, communities became more fractured. Yet, the desire to witness and participate in judicial affairs did not abate. Instead, it was the press that became the window into the courtroom and the pit below the scaffold.

However, while widespread press reporting of cases propagated this fascination with legal subject matter, they also represented a much more detailed and process-focused image of the law and the legal actors therein. Through their continuous reporting of legal cases and their regular publication of detailed accounts of trials and cases, the mainstream press popularised the barrister. Due to their role as advocates, it has been discussed how in the visual press the bar became the public face of the legal profession and a visual metaphor for the law. Individual barristers became recognisable in the press and the public became familiar with wide numbers of practising members of the profession. Such comprehensive reporting of the legal process encouraged the first substantial and extensive public engagement with the profession. It exposed society to the bar and its professional role, and made the profession visible to all portions of

society. This was the first period of extensive and cross-societal public engagement with the legal profession that can be observed and analysed.

The bar was extensively represented in the nineteenth century press and it was this prolonged exposure that established a popular public image of the profession. For many readers in the nineteenth century, the bar would have seemed a close yet distant part of their social experience. Specifically, for those in the working class a barrister would not have been part of their daily lives and their only real experience of the legal professions would have been through the press. For example, around 92% of all criminal offending was dealt with by local police courts under the authority of local magistrates, and the new county courts were not a forum designed for the working poor. Therefore engagement with barrister in the everyday was limited. Instead, the press acted as the principal medium through which the majority of the population interacted with the superior legal profession. Beyond seeing them progress into the local cathedral on Legal Sunday and as they moved between the assize courts and their mess lodgings, the press was an important site of cultural construction for the public of the nineteenth century. This is significant for the scholarly understandings of how the profession developed through the mid-nineteenth century and responded to external influence. It also demonstrates the considerable public exposure that the barrister received in this text of early mass popular culture and the public engagement with legal material. Regardless of the specific image that was constructed, the mere depiction of the bar on such a substantial scale clearly evidences how the representation of the profession engaged the public and positioned the bar as important actors in the legal drama of Victorian England.

This thesis has predominantly focused on the representation of the barrister in the press of the period, but this representation has the ability to inform public opinion and by consequence, construct a public image. Public image was defined in this work as the opinion that is represented to the public through various media, including cultural texts and the press, and how this is constructed in the mind's eye of the public. The representation of the bar in the press of the nineteenth century is an important signifier as to the popular public image of the profession. The press was the first truly mass text of popular culture and would have been engaged with by large percentages of the population.

The most significant factor in the construction of the bar's public image was the ability of the press to lead public opinion and the mass characteristics of the nineteenth century press. Scholars have previously recognised that the press both leads and reflects public opinion, and this thesis agrees with that assertion. It has been established in this thesis that the way in which a barrister was portrayed in the press allows us to measure how the public may have viewed that individual barrister or the profession as a whole, whether as a reflection of already held beliefs, as a new construction of new images or both. The public image that was represented through the press had the ability to construct and reflect public opinion to create a recognisable public image of the profession in the social consciousness of the public. This was only possible due to the press of the nineteenth century being the key source in the first recognisable popular culture, and its subsequent focus on the legal profession.

To refer back to the discussion from chapter one, if the public image of a profession is how the public views that profession, and the press both leads and

reflects public opinion, then the press can be a principal source to construct a public image of a profession in an historical period. By using narratology and the ontology of the image, methods of cultural analysis and signification can be used to consider how these textual and visual sources can create motifs and stereotypes of individual professions or professionals. By analysing the public image of the bar in this way, an original contribution can be made to the current historiography of the profession by contributing to existing scholarship as a response to previous calls for investigation. The nineteenth century press can also be more firmly positioned within the cultural history of the law and lawyers in popular sources.

However, the assertion of a popular public image of the bar in the nineteenth century is not without its limitations. While theories of the power and influence of the press alongside the constructing capability of textual representations and visual images can suggest how the press could construct a public image, the popularisation of the bar in the period also suggests that these representations were far-reaching. It is difficult to say conclusively what the definitive public image of the bar is because the history of the everyday person and their opinion was not recorded, so there is no clear point of comparison. There is very little recorded opinion of large tranches of society. Therefore, different sources of information need to be examined in order to begin to explore what the public image of the different organisations and institutions, in this case the bar, was in the period. This thesis argues that the press of the nineteenth century can be a measure of the image established in the public mind, but whether this the only popular public image of the bar is questionable.

While this thesis was unable to look at all facets of the barrister's press representation and public life, this thesis looked at three distinct and the most important areas of the barrister's professional life that received detailed press coverage. Namely, the textual and visual representation of barristers in court activities, the bar's educational function undertaken by the Inns of Court, and the Inn's purpose as regulators of the profession. It has already been explored that the popularised nature of the legal process and the bar's role within this process, but education and regulation were areas of improvement and advancement in the nineteenth century that were popularised in the press of the period. Educative reform was an important sphere of social improvement in the second half of the nineteenth century, not just for the public but also within the traditional and new industrialised professions. It is argued that throughout the nineteenth century, education became a social issue that affected all of society and in turn all of society took an interest in educational matters. The same can be contended for regulatory matters. A growing culture of centralised, collective regulation emerged during the period and it was inevitable that the bar fell under the view of the great commentator of the epoch, the press. However, it was also the popularisation of the bar through the press that placed the various aspects of the bar's professional existence under the purview of the national and regional press. This clearly demonstrates the complex interrelationship between the profession, the press, the public and socio-political trends. This further feeds the idea of the press evolving qualitative characteristics in the nineteenth century, by a site of reflection and refraction.

The press of the nineteenth century represented the bar in a nuanced spectrum of themes and motifs, more sophisticated and diverse than in any

period before. The preceding discussion has explained how the mass nature of the press resulted in a different quantitative and qualitative impact than the cultural texts of preceding centuries, which had represented the lawyer and the barrister in more limited leitmotifs. There is clear continuity of themes through these historical cultural texts and into the nineteenth century, particularly tropes that represented lawyers, barristers and advocates in a negative manner. These are particularly echoed in the satirical press of the nineteenth century. However, this is to be expected as the satirical press of the period drew upon familiar stereotypes, allegory and allusion in order to critique and lampoon the bar, and this occurred in both the visual and textual depictions. But even within the satirical press and the negative representation of the bar, there are nuances. The more radical periodicals were scathing, even offensive in their criticism, but more mainstream periodicals were less critical and more jovial, designed to poke fun but without true malice.

The satirical press in the nineteenth century represented the barrister through themes and stereotypes that would have been familiar to the consumers of cultural texts in preceding centuries and not that remote from the anti-lawyer sentiment that permeates contemporary cultural texts. These are tropes that depict the barrister as objects of scorn, specifically as economically motivated, betrayers of trust, morally deficient, and fomenters of strife and conflict. These representations would have reinforced stereotypes already in the public mind, but would have had less of an impact on the public image of the bar.

When considering the impact of the satirical press on the public image of the bar, satire would have been less influential than the mainstream press and

that is why it has been presented here separately to the other representations considered. The public purchased these publications as they knew they were critical and humorous, or even analogous to their own beliefs. The public expected criticism of the profession when they read satirical sources, and while these publications would have been recognisable to the public and reinforced tropes and allegory already in the public consciousness, they would have been received differently to reportage in the mainstream press. Reportage in the mainstream press was received with more authority and would have had a greater impact on the image of the bar that was received by the public, and the potential public image formed. The mainstream press sought to report truthfully and visually represent scenes with accuracy and the public sought the press as a source of information. This is reflected throughout the period but the style of reporting shifts through the second half of the century, drawing upon more narrative devices and becoming sensationalist in their reporting.

In the mainstream press, the most predominant representation of the barrister in their role as advocates was a factual representation of the profession. The evidence presented demonstrates how the newspapers and periodical reports represented the bar with professionalism and efficiency, demonstrating lawyers undertaking their vocational activities in a competent and proficient manner. The varying levels of reporting did not detract from the proliferation of the description of the legal process in the press, and the publication of names of barristers alongside their professional activities ensured that the public became aware of individual barristers and their exploits.

The various styles of reporting, from verbatim reports to case summaries, depended on the level of public interest in particular cases. Yet, even when cases were merely summarised, the public were able to follow the activities of the bar. This led to an image of proficiency, and perpetuated the image of the barrister as a facilitator of justice, whilst also validating the image of the bar as a metaphorical and visual figurehead for the law. The factual representation of the profession was a consequence of the legally detailed and comprehensive reporting of the period. The extensive legal reporting of the period was accurate and factual, and the image of professionalism that was transmitted grew from this. Furthermore, the continuous appearance of barristers in the court process demonstrated to the public their fundamental importance in the legal process and, as a consequence, made the public more expectant of legal reporting.

Yet the changes to the qualitative characteristics of the press during the period saw a shift in reportage from factual description to more narrative construction of such case reports. As a result, tropes that would be closer associated to literary analysis began to emerge in case reports. In the second half of the nineteenth century the press began to present cases with sensationalist titles like ‘The Pimlico Mystery’ or ‘The Tranby Croft Affair’ and contextualised the reports with particulars to set the scene and characterisation of the individuals in the case. Specifically, this meant that some barristers began to be recognised through tropes more identifiable within fictional narratives.

Barristers such as Edward Clarke were represented as heroes by the press and revered as celebrities by the public. These individuals were depicted through exalting language; Clarke was described as magnificent, fantastic, and

highly praised for their fine professional skills. The visual press of the period furthered this hero status by allowing the public to visualise these celebrity barristers through pictorial representations. The press, and subsequently the public, very likely perceived the barrister as a hero, a guardian of justice and a facilitator of the legal process. The praise of individual barristers for their professional skills demonstrated how they were highly accomplished individuals who were extremely proficient in their oratory and rhetoric, and this furthered the impression that the public had of the barrister's pre-eminent status. The in-depth and accurate reporting of cases allowed the public to engage with those individual barristers that possessed excellent rhetorical skills and fine forensic oratory. The new adversarial conventions that had emerged through the professionalisation of the bar during the eighteenth century encouraged substantial oratory on behalf of clients, and provided the press with a greater opportunity for engagement with this in-court advocacy. Much like actors, these barristers were famed for their clever and impassioned speeches.

However, the number of barristers who were represented as celebrities was limited. While the general reputation of the bar was very good, these high-profile hero barristers that penetrated the public consciousness were small in number and such status was only reserved for those professionals who excelled. Barristers such as Clarke were the leading advocates of their profession and were reported in great detail across the national and provincial press.

Such reporting also allowed the public to become acquainted with those who stepped outside their brief and those who conducted their legal practice in a scandalous manner. The comprehensive and detailed reporting of cases also led

to the emergence of individual barristers who were characterised as villains. They were reported in the press as contravening etiquette, as disrespectful and disgraceful in their professional activities, and as illicit in their behaviour. Villains such as Charles Phillips in the *Courvoisier* case represented the profession as immoral betrayers of trust, while Dr Kenealy in the trial of the Tichborne Claimant represented the bar as ferocious, aggressive and animalistic. In such cases, the villain was considered to have contravened what was acceptable to the profession and to society.

These villains were represented as being treated with scorn by some members of the profession and defended by others. Kenealy was ostracised by his profession, whereas fellow barristers defended Phillips. This demonstrates a division within the profession and showed how quick the bar was to publicly defend or criticise their fellow barristers. It was this criticism by the profession that echoed the representation of the barrister as a villain in the press of the period, and further demonstrated to the public the villainous nature of certain individuals. Those individuals who engaged in some misconduct, or at the very least crossed the line of professional and social appropriateness, forwarded themes of the lawyer as a villain.

Much like the representation of hero barristers these villains were generally small in number. As the reputation of the bar was generally very high, when these villains engaged in misconduct or committed bad behaviour it was all the more shocking to the public. This was exacerbated further when they were compared to the actions and professional practise of heroic barristers. Those barristers that were really the focus of such negative press reporting were already

well recognised, and this made their fall from grace even more spectacular and news worthy.

The disbarring of such villains was also reported in the press, but there is further nuance within the depiction of the bar's disciplinary affairs during the period of investigation. Generally, the press listed the disbarring of barristers and often accompanied these disbarring orders with some wider contextual information. The national and provincial press published disbarring orders and this represented an image of the bar effectively managing their affairs and regulating themselves efficiently. Nevertheless, it did portray barristers engaging in financial, public and private professional misconduct, which would have transmitted an image of the profession as morally deficient or ethically ambiguous and encouraged the stereotype of the barrister as an object of scorn. The bar's disciplinary cases would have intersected with the stereotypes already pertinent in popular culture. The reporting of disciplinary cases was a means of transmitting information to the public, encouraged by the popularisation of the bar in the press of the nineteenth century. There was also a peak in the reporting of disciplinary cases during the middle decades of the nineteenth century, and may suggest the a more proactive move by the Inns of Court to regulate more efficiently, during a time of intense focus on the bars activities and role in the management and administration of the profession. The Select Committee on the Inns of Court in the mid-1830s and the Select Committees on Legal Education in the mid-1840s had placed the bar's affairs in the public domain and open to critique and commentary.

However, high profile disbarrings, often concerning the villains that had featured heavily in the press, saw the profession condemned as a whole for the way in which they conducted their regulatory activities in editorials and commentary. The press, and by extension the public, often sided with the disbarred villain and criticised the power of the Inns to take a man's livelihood through a closed, unconstitutional tribunal. These reports described the disciplinary tribunals heard by the benchers of the Inns of Court as an affront to the jurisprudence of England and as an insult to the maxim that for justice to be done, it needs to be seen to be done. Working class papers even went so far as to refer to the Inns of Court as a blackleg union. This was because during the nineteenth century, great emphasis was placed on improvement of the courts and the provision of legal services in England and Wales, looking to update the legal system to serve a modern, industrial Empire. There was also a focus on central, formal regulation across many spheres of society. The bar, seeming to operate in an ad hoc and opaque manner, stood at odds with this age of improvement and intervention. Therefore, the tradition and history of the bar was viewed to be out-dated and archaic. To see the press supporting the cause of a high profile villain, demonstrates the nuances within the representation of the profession, and the complex public image that was constructed during the nineteenth century.

There was also substantial commentary on the suitability of the bar's educative system during the mid-nineteenth century. As discussed above, the press reported the findings of the Select Committee and published the Parliamentary debates, but also reported commentary and editorials in the press. In a period of growing public desire for education, the bar were found wanting. The press of the period questioned the suitability of the Inns of Court system of

education and highlighted the lack of a formal examination or specific learning exercises prior to being called to the bar. This lack of education fed the popular idea of the briefless barristers, a bungling, desperate character struggling for work and incompetent. However, this lack of education also raised bigger questions around the suitability of the bar to modernise and respond to external pressure. This portrayed the bar as archaic and resistant to modernisation; further perpetuating images of the bar as out-dated.

These press interventions demonstrate an immensely nuanced image of the bar being represented to the public. This image is much more complex than has been previously understood, because representations of the bar are not as consistently negative as alluded to by other scholars. Instead, the reputation of the bar was actually generally very good, but instead it was the Inns of Court that were the subject of derision in the press. However, there were also individual barristers that were highly acclaimed or notoriously villainous, but these were limited, and were only those that greatly exceeded or significantly fell short of what was required by the honourable profession.

The quantitative and qualitative impact of the press was different to the periods that preceded it, and the pervasiveness of textual and visual representations of the bar would have constructed new images in the public mind. While it is difficult to verify with any exactness the precise public image that was constructed across society, the power of the press and the ability of such textual and visual representations to construct images in the public mind means that this thesis has begun to examine how the public engaged with the

predominant source of legal information, how this source could have created such a public image and the type of image that may have been constructed.

Going forward with this research, additional sources will be explored in order to further verify the public image of the bar represented in the sample of publications looked at in chapter 2, while additional types of sources produced by the public will be used to correlate this primary public opinion with the press image representation established in this thesis. It could also be argued that the mass culture of the press in the nineteenth century laid a cultural foundation for the image of the lawyer in succeeding cultural texts.

Upon initial observation, the press representation of the barrister in the nineteenth century is as nuanced as contemporary sources, but with clear similarities. It is envisaged that future work will explore the links between such representations and look to see where such themes are reflected across history. Furthermore, this work provides a baseline for future analysis of the differing representations across different cultural texts and a starting point for further research into the specific examination of the representation of the legal professional in press sources across the history of the mass press in England and Wales.

Bibliography

Primary Sources

Archival Material

Caricatures, Art Works and Illustrated Ballads (Chronological)

'Beer Lane and Gin Alley,' by W Hogarth, britishmuseum.org, <http://www.britishmuseum.org/explore/highlights/highlight_objects/pd/w/william_hogarth,_beer_street.aspx> accessed 15 Oct 2014

Coroners Court, St George's Hall, Liverpool – Personal Collection

'*Marriage a-la-mode',* by W Hogarth, thenationalgallery.org.uk, <http://www.nationalgallery.org.uk/paintings/william-hogarth-marriage-a-la-mode-1-the-marriage-settlement> Mr Silvertongue, the Barrister, accessed 29 May 2014

The messenger defeated or, the lawyer's escape. A new ballad. To the tune of, Hey boys up go we. [London], 1705. 1 pp.

The crafty lover: or, the lawyer out-witted. Northampton, [1735?]. 1 pp.

The politick maid of Suffolk; or, the lawyer outwitted. [London], [1760?]. 1 pp.

'Lawyers Last Circuit' by J. R. Smith, (Oxford St, London, April 1782)

'*Internal View of Westminster Hall'* by G Hawkins (1801)

'*The Court of King's Bench, Westminster Hall'* by R. Phillips (St Paul's Church Yard, London, 1804)

'The First Day of Term; or the Devil Among Lawyers' by R. Dighton (London, 1809)

The Tichborn Trial by Frederick Sargent (1874)

'*The Last Circuit'*, by W. Holland, (Cockburn St, London, May 1803)

'Westminster Hall in the Palace of Westminster' by Thomas Rowlandson (1808)

Disciplinary Records

Gray's Inn Archive (GIA) Records of Disciplinary and Professional Conduct DIS/1/1-3 (1848–70), DIS/2/1-19 (1812–1900)

DIS/1/2/9 - CW Lewis

DIS/2/5 - HH Pyke

DIS/2/14 - CW Lewis

DIS/2/17 - Dr Kenealy

Inner Temple Archives (ITA), Disciplinary and Professional Conduct Papers (1821–1938) ITA-DIS/1

ITA-DIS/1/B1 - William Burge

ITA-DIS/1/D1 - H Bargrave Deane

ITA-DIS/1/G2 - William Gill

ITA-DIS/1/J1 - Edwin James QC

ITA-DIS/1/W2 - H Weightman

Lincoln's Inn Archive (LIA), Black Books (BB Original Editions), Vol. 18–39 (1799–1901), Lincoln's Inn Library

Vol.29 (1860–1862) - Charles Broadbelt-Claydon Disbarred

Vol. 34 (1875–1884) - FRF Banbury

Vol. 34 (1875–1884) - H De Tourville

Vol. 34 (1875–1884) - JL Litton

Vol. 35 (1879–1884) - JL Litton

Middle Temple Archive (MTA)

MT.1/MPI/10–21 (1798–1908) - Minutes of Proceedings at Parliament

MTA-MT.3/DIS (1845–1895) - Disciplinary Proceedings against Members of the Middle Temple

MT.3/DIS/1 - Augustus Newton

Newspapers and Periodicals

Age and Argus

Berrow's Worcester Journal

Birmingham Daily Post

Cheshire Observer

Daily News

The Englishman

Freeman's Journal and Daily Commercial Advertiser,

Fun

John Bull

John Bull and Britannia

Judy

Lloyd's Weekly Newspaper

Northern Echo

Pall Mall Gazette

Punch

Punch's Almanack

Reynolds's Newspaper

The Aberdeen Journal

The Age

The Belfast News-Letter

The Blackburn Standard

The Bradford Observer

The Bristol Mercury

The Caledonian Mercury

The Derby Mercury

The English Gentleman

The Essex Standard, West Suffolk Gazette and Eastern Counties Advertiser

The Evening News

The Examiner

The Glasgow Herald

The Globe

The Hampshire Telegraph and Sussex Chronicle

The Hull Packet and East Riding Times

The Illustrated London News

The Illustrated Police News

The Ipswich Journal

The Lancaster Gazette, and General Advertiser for Lancashire

The Leeds Intelligencer and Yorkshire General Advertiser

The Leeds Mercury

The Leicester Chronicle: or, Commercial and Agricultural Advertiser

The Liverpool Mercury

The Manchester Times

The Morning Chronicle

The Morning Post

The Northern Star and National Trades' Journal

The Penny Illustrated Paper and Illustrated Times

The Royal Cornwall Gazette

The Satirist

The Sheffield and Rotherham Independent

The Spectator

The Standard

The Times

The York Herald and General Advertiser

Trewman's Exeter Flying Post

Western Mail

Parliamentary Debates

Parl. Deb., vol. XVIII, cc. 127–258, 7 Feb 1828 (HC)

Parl. Deb., vol. C, cc. 109–110, 4 Jul 1848 (HC)

Parl. Deb., vol. CXX, cc. 1111–1112, 26 Apr 1852 (HC)

Parl. Deb., vol. CXXII, cc. 1277–1278, 25 Jun 1852 (HL)

Parl. Deb., vol. CXXXI, cc. 147–169, 1 Mar 1854 (HC)

Parl. Deb., vol. CXLI, cc. 2030, 5 May 1856 (HC)

Parl. Deb., vol. CXLIV, cc. 454, 10 Feb 1857 (HC)

Parl. Deb., vol. CXLV, cc. 833–834, 25 May 1857 (HC)

Parl. Deb., vol. CCXII, cc. 47–77, 21 Jun 1872 (HC)

Parliamentary Papers

'Documents relating to Application of Mr. D. W. Harvey, M. P., to be called to Bar and his Rejection by Benchers of Inner Temple', *HCPP* (1834) (349) XLVIII.1

'Second Report from Select Committee of the Inns of Court', *HCPP* (1834) (555) XVIII.331

'Select Committee on Legal Education', *HCPP* (1846) (686) X.1

'Report from the Select Committee on Official Salaries,' *HCPP,* (1850) (611) XV.179

'Report of the Commissioners Appointed to Enquire into the Arrangements in the Inns of Court and Inns of Chancery for Promoting the Study of Law and Jurisprudence', *HCPP* (1855) (1988)

Popular Sources

Articles

Unaccredited, 'The Queen, The Bar and the 'Times'' in (1845) 1 *The Oxford and Cambridge Review*

Autobiographies and Biographies

Bowker, AE, *A Lifetime in the Law,* (London: W.H. Allen & Co, 1961)

Marjoribanks, E, *The Life of Sir Edward Marshall Hall,* (London: Victor Gollancz Ltd, rep. 1929)

——, and Mortimer, J, *Trials of Marshall Hall*, reprint (London: Penguin, 1989)

Walker-Smith, D, and Clarke, E, *The Life and Famous Cases of Sir Edward Clarke*, reprint (London: Eyre & Spottiswoode, 1942)

Books

Ackerman, R, *The Microcosm of London; or London in Miniature,* Vol. 2 (London: Methuen Company 1808)

Andersen, HC, *Hans Christian Andersen Fairy Tales*, Kindle edition (London: Acheron Press, 2012)

Braund, SM, *Juvenal Satires: Book I,* (Cambridge: CUP, 1996)

Carroll, L, *Alice's Adventures in Wonderland*, reprint (London: Penguin, 1996)

Chaucer, G, *The Canterbury Tales,* (London: Penguin Classics, 2003)

Clarke, E, Sir Edward Clarke (Her Majesty's Solicitor General) Public Speeches 1880–1890, (London: Routledge, 1890)

——, *The Story of My Life,* (London: OHN Murray, 1918)

Dent, W, *'Lawyers in Term'* (Great Queen Street, London: J. Nunn, Bookseller, Stationers and Printsellers, 1786)

Dickens, C, *A Tale of Two Cities*, reprint (Oxford: OUP, 2008)

——, *Selected Letters of Charles Dickens.* Paroissien, D. ed. (Boston: Twayne Publishers 1985)

——, *Bleak House*, reprint (London: Penguin Classics, 2011)

——, *Pickwick Papers*, reprint (Oxford: OUP, 2008)

Gay, J, *The Beggar's Opera,* (1728) (Harmondsworth: Penguin, 1986)

——, *The Beggar's Opera,* (Unabridged) (Dover Publications: London, 1999)

——, *The Beggar's Opera and Polly,* (Oxford: OUP, 2013)

Grahame, K, *Wind in the Willows*, reprint (London: Puffin, 1994)

Grisham, J, *The Firm*, reprint (London: Arrow, 2010)

——, *The Pelican Brief,* reprint (London: Arrow, 2010)

——, *The Runaway Jury,* reprint (London: Arrow, 2010)

Juvenal and Persius*: Satires,* (HTML eBook from Fordham University) <http://www.fordham.edu/halsall/ancient/juvenalpersius-intro.asp> accessed 8 April 2014

Kingsley, C, *The Water-Babies*, reprint (London: Wordsworth Editions Ltd, 1994)

Macaulay, Dr, *Victoria R.I. Her Life and Reign,* (London: William Clowes and Sons, 1887)

Orwell, G, *The Decline of an English Murder and Other Essays,* (London: Penguin Classics, 2009)

Robinson, Serjeant, *Bench and Bar*, (London: Hurst & Blackett, 1891)

Ruskin, J, *The King of the Golden River*, reprint (London: Book Jungle, 2010)

Thackeray, WM, 'The History of Pendennis' (HTML eBook, Project Gutenberg) <http://www.gutenberg.org/ebooks/7265?msg=welcome_stranger> accessed 8 April 2014

Plays

Gilbert, WS, and Sullivan, A, *Trial By Jury,* 'When I Good Friends was Called to the Bar'

——, *HMS Pinafore,* 'When I was a Lad'

Molière, J-BP, *The Essential Moliere Collection,* (Kindle Edition)

——, *Le Médecin Volant,* trans. Wall, C, (Project Gutenberg, 2008)

Plautus, *Aulularia,* (Liverpool: Liverpool University Press, 2016)

Shakespeare, W, *The Complete Works of William Shakespeare,* (Oxford: OUP, 2005)

Secondary Sources

Articles

Abratt, R. 'A New Approach to the Corporate Image Management Process' (1989) 5(1) *Journal of Marketing Management* 63

Anderson, J, 'Pugilistic Prosecutions: Prize Fighting and the Courts in Nineteenth Century Britain' (2001) 21(2) *Sports Historian* 35

Asimow, MR, 'Bad Lawyers in the Movies' (2000) 24 *Nova L. Rev.* 533

——, ‘When Lawyers were Heroes’ (1996) 30 *USF L. Rev.* 1131

Aspinall, A. ‘The Circulation of Newspapers in the Early Nineteenth Century’ (1946) 22 *R. E. S*. 29

Baron, JB, and Epstein, J, ‘Is Law Narrative?’ (1997) 45 *Buffalo Law Review* 142

Bartrip, PWJ, ‘State Intervention in Mid-Nineteenth century Britain: Fact or Fiction?’ (1983) 23(1) *The Journal of British Studies* 63

Benton, TG, ‘The Life of Euscorpius Flavicaudi’ (1991) 19(2) *Journal of Arachnology,* 105-110

Boon, A, and Webb, J, ‘Legal Education and Training in England and Wales: Back to the Future?’ (2008) 58(1) *Journal of Legal Education* 79

Bouwsma, WJ, ‘Lawyers and Early Modern Culture’ (1973) 78(2) *The American His. Rev.* 303

Brand, PA, ‘The Origin of the English Legal Profession’ (1987) 5(1) *Law and History Review,* 31

Brebner, JB, ‘Laissez Faire and State Intervention in Nineteenth century Britain’ (1948) 8 *Journal of Economic History Supplement* 59

Buerki, RA, ‘The Public Image of the American Pharmacist in the Popular Press’ (1996) 38(2) *Pharmacy in History* 62

Denvir, J, ‘Law, Lawyers, Film & Television’ (2000) 24 *Legal Stud F* 279

Domke, D, Perlmutter, D, and Spratt, M, ‘The Prime of our Times?: An Examination of the ‘Power’ of Visual Images’ (2002) 3(2) *Journalism* 131, 157

Dutton, J, and Dukerich, J, ‘Keeping an Eye on the Mirror: Image and Identity in Organizational Adaption’ (1991) 34 *Academy of Management Review* 517

Dworkin, R, ‘Law as Interpretation’ (1982) 60 *Texas L. Rev.* 527

Elkins, C, ‘The Voice of the Poor: The Broadside as a Medium of Popular Culture and Dissent in Victorian England’ (1980) 14 *Journal of Popular Culture* 262

Farrell, M, ‘Adelaide Bartlett and the Pimlico Mystery’ (1994) 309 *British Medical Journal* 1720

Friedman, LM, ‘Law, Lawyers, and Popular Culture’ (1989) 98(8) *The Yale Law Journal* 1579

Gurevitch, M, Coleman, S, and Bulmer JG, ‘Political Communication – Old and New Media Relationships’ in E Katz and P Scannell (eds), ‘The End of Television? Its Impact on the World (So Far?)’ (2009) 625 *The*

Annals of the American Academy of Political and Social Science Series 164

Haddad, T, 'Silver Tongues on the Silver Screen: Legal Ethics in the Movie' (1999–2000) 24 *Nova L. Rev.* 673

Harrison, S, 'Horace and the Construction of the English Victorian Gentleman' (2007) 34(2) *Helios,* 207

Henderson, EG, 'Legal Literature and the Impact of Printing on the English Legal Profession' (1975) 68 *Law Lib. Jour.* 288

Jackson, B, 'Anchored Narratives' and the Interface of Law, Psychology and Semiotics' (1996) 1 *Legal and Criminal Psychology* 17

Lowenthal, L, and Fiske, M, 'Reaction to Mass Media Growth in the 18th Century England' (1956) 3 *Journalism Quarterly* 442

MacDonagh, O, 'The Nineteenth century Revolution in Government: A Reappraisal' (1958) 1(1) *The Historical Journal* 52

Machura, S, and Ulbrich, S, 'Law in Film: Globalizing the Courtroom Drama' (2001) 28 *Journal of Law and Society* 117

McGowen, R, 'Civilizing Punishment: The End of the Public Execution in England' (1994) 33(3) *Journal of British Studies* 257

Menkel-Meadow, C, 'The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft' (1999–2000) 31(1) *McGeorge L. Rev.* 1

Moran, L, 'Judging Pictures: A Case Study of Portraits of Chief Justices, Supreme Court of New South Wales' (2009) 5(3) *International Journal of Law in Context* 255

Musson, A, 'Seeing Justice: The Visual Culture of Law and Lawyers' in A Speer and G Guldentops (eds), (2014) 38 (Das Gesetz) *Miscellanea Mediaevalia* 51

Owens, JB, 'Grisham's Legal Tales: A Moral Compass for the Young Lawyer' (2000–2001) 48 *UCLA L. Rev.* 1431

Parris, HW, "The Nineteenth century Revolution in Government: A Reappraisal Reappraised", (1960) 3 *Historical Journal* 17

Posner, RA, 'Narrative and Narratology in Classroom and Courtroom' (1997) 21(2) *Philosophy and Literature* 292

Posner, RA 'Legal Narratology' (1997) 64 *U. Chi. L. Rev.* 737

Pound, R, 'Legal Profession in England from the End of the Middle Ages to the Nineteenth Century' (1944) 19(4) *Notre Dame Law Review,* 315

Pugsley, D, 'Mr Justice Telford & the Western Circuit' (2006) *Society of the Western Circuit Newsletter*

Pue, WW, 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar' (1987) 5(1) *Law and History Review* 135

——, 'Moral Panic at the English Bar: Paternal vs. Commercial Ideologies of Legal Practice in the 1860s' (1990) 15(1) *Law and Social Inquiry* 49–118

Rose, J, 'Medieval Attitudes toward the Legal Profession: The Past as Prologue' (1998) 28 Stetson L. Rev. 345

Salmon, EG, 'What the Working Classes Read' (1886) 20 *Nineteenth Century* 110

Seaman, B, 'Lawyers in Chaucer's Time' (1982) 6(2) *ALSA Forum* 187

Sommerlad, H, 'The Commercialisation of Law and the Enterprising Legal Practitioner: Continuity and Change' (2011) 18(1) *International Journal of the Legal Profession* 73

Sugarman, D, 'Simple Images and Complex Realities: English Lawyers and Their Relationship to Business and Politics 1750 –1950 (1993) 11(2) *Law and History Review* 257

Sugarman, D, 'A Special Relationship? American Influences on English Legal Education, c.1875-1965' (2011) 18(1-2) *International Journal of the Legal Profession,* 7

Thomas, MW, 'The Origins of Administrative Centralisation' (1950) 3 *Current Legal Problems* 214

Tranter, K, 'The Speculative Jurisdiction; The Science Fictionality of Law and Technology, (2011) 20 *Griffith Law Review* 817

Travis, M, 'Making Space: Law and Science Fiction' (2011) 23(2) *Law and Literature* 241

——, and Tranter, K, 'Interrogating Absence: The Lawyer in Science Fiction' (2014) 21(1) *The International Journal of the Legal Profession* 23

Turner, RV, 'The Origins of the Medieval English Jury: Frankish, English, or Scandinavian?' (1968) 7(2) *Journal of British Studies* 1

Vogenauer, S, 'Law Journals in Nineteenth Century England' (2008) 12(1) *Edinburgh Law Review* 26

Woolf, DR, 'The "Common Voice": History, Folklore and Oral Tradition in Early Modern England' (1988) 120 *Past and Present* 26

Books and Chapters

Abel-Smith, B. and Stevens, R. *Lawyers and the Courts,* (London: Heinemann, 1967)

Abel, RL. *The Legal Profession in England and Wales,* (London: Blackwell, 1988)

Altick, RD, *The English Common Reader: A Social History of the Mass Reading Public, 1800–1900,* (Chicago: University of Chicago Press, 1957)

——, *Victorian People and Ideas,* (London: Dent & Sons, 1974)

——, *Punch: The Lively Youth of a British Institution 1841–1851,* (Columbus: Ohio State University Press, 1997)

Anderson, MD, *Drama & Imagery in England Medieval Churches,* (Cambridge: CUP, 1963)

Andrews, W, 'Revels at the Inns of Court' in Andrews, W, (ed), *The Lawyer, in History, Literature and Humour,* (London: William Andrews and Co, 1896)

Andrews, W, 'People in the Pillory' in Andrews, W, (ed), *The Lawyer, in History, Literature and Humour,* (London: William Andrews and Co, 1896)

Andrews, W, *Medieval Punishments: An Illustrated History of Torture,* (New York, Skyhorse Publishing, 2013)

Anglo, M, *Penny Dreadfuls and Other Victorian Horrors,* (London: Jupiter, 1977)

Aristodemou, M, *Law and Literature: Journeys from Her to Eternity,* (Oxford: OUP, 2000)

Arnold, H, *Stained Glass of the Middle Ages in England and France,* eBook repr. (Library of Alexandria, 1918)

Arnold, M, *Culture and Anarchy* (repr. London: OUP 2006)

Ash, J, *Dress Behind Bars: Prison Clothing as Criminality,* (London: IB Tauris, 2010)

Ashton, TS, *The Industrial Revolution,* (London: OUP, 1964)

Asimow, M, and Mader, S, *Law and Popular Culture: A Course Book,* (New York: Peter Lang, 2007)

Atiyah, PS, *The Rise and Fall of Freedom of Contract,* (Oxford: Clarendon Press, 1979)

Bailey, P, *Leisure and Class in Victorian England: Rational Recreation and the Contest for Control, 1830–1885,* (London: Routledge, 1978)

Baker, JH, *An Introduction to English Legal History,* 4th edition (London: Butterworths, 2002)

Banks, S, *Informal Justice in England and Wales, 1760-1914: The Courts of Popular Opinion,* (London: Boydell Press, 2014)

Barber, S, and Peniston-Bird, CM, *History Beyond the Text: A Students Guide to Approaching Alternative Sources,* (London: Routledge, 2009)

Barthes, R, *Elements of Semiology,* trans. A Lavers and C Smith, (London: Jonathan Cape, 1967)

——, *Mythologies,* (London: Vintage Books, 2009)

Barton, CKB, *Getting Even: Revenge as a Form of Justice,* (Chicago: Open Court, 1999)

Beegan, G, *The Mass Image: A Social History of Photomechanical Reproduction in Victorian London,* (Hampshire: Palgrave Macmillan, 2008)

Ben-Dor, O, *Law and Art: Justice Ethics and Aesthetics,* (London: Routledge, 2011)

Bergman, A, *We're in the Money,* (Chicago: Elephant Paperbacks, 1992)

Betts, RF, and Bly, L, *A History of Popular Culture,* 2nd edition (London: Routledge, 2013)

Black, J, *The English Press, 1621-1861,* (Stroud: Sutton Publishing, 2001)

Black, J, *The English Press in the Eighteenth Century,* (London: Routledge, 2010)

Booth, MR, *Theatre in the Victorian Age,* (Cambridge: CUP, 1991)

Bourdieu, P, *Distinction: A Social Critique of the Judgement of Taste,* trans by R Nice, (Cambridge, Mass: HUP, 1984)

Bradley, S, *The Railways: Nation, Network and People,* (London: Profile Books 2015)

Brake, L, and Codell, JF, *Encounters in the Victorian Press: Editors, Authors, Readers,* (Basingstoke: Palgrave Macmillan, 2005)

Brake, L, and Deymoor, M, (eds.), *The Lure of Illustration in the Nineteenth Century: Picture and Press,* (New York: Palgrave Macmillan, 2009)

Brake, L, and Demoor, M, *Dictionary of Nineteenth Century Journalism in England and Ireland,* (Gent, Academia Press, 2009)

Braund, SM, *Juvenal Satires: Book I,* (Cambridge: CUP, 1996)

Briggs, A, *The Age of Improvement,* (London: Longman, 1965)

Briggs, J, Harrison, C, McInnes, A, and Vincent, D, *Crime and Punishment in England: An Introductory History,* (London: UCL Press, 1996)

Broomfield, A, *Food and Cooking in Victorian England: A History,* (Westport: Praeger, 2007)

Brooks, CW, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Profession in Early Modern England,* (Cambridge: CUP, 1986)

Brooks, CW, *Lawyers, Litigation and English Society Since 1450,* (London: Hambledon Press, 1998)

Brooks, P, and Gewirtz, PD, *Law Stories: Narrative and Rhetoric in Law,* (Michigan: Yale UP, 1998)

Brown, L, *Victorian News and Newspapers,* (Oxford: Clarendon Press, 1985)

Burke, P, *Popular Culture in Early Modern Europe,* 2nd edition, (Aldershot: Ashgate, 1994)

——, *Popular Culture in Early Modern Europe,* 3rd edition, (Aldershot: Ashgate, 2009)

——, *Varieties of Cultural History,* (Ithaca: Cornell University Press, 1997)

Burke, P, *What is Cultural History?* 2nd edition, (Cambridge: Wiley, 2008)

Cairns, DJA, *Advocacy and the Making of the Adversarial Criminal Trial 1800–1865,* (Oxford: OUP, 1998)

Calaresu, M, de Vivo, F, and Rubies, JP, 'Introduction' in Calaresu, M, de Vivo, F, and Rubies, J-P, (eds) *Exploring Cultural History: Essays in Honour of Peter Burke,* (Aldershot: Ashgate, 2010)

Campbell, J, *Shakespeare's Legal Acquirements,* (New York: Appleton and Co, 1859)

Campbell-Smith, D, *Masters of the Post: The Authorized History of the Royal Mail,* (London: Penguin Books 2011)

Cawthorne, N, *Public Executions,* (London: Chartwell Books, 2006)

Chibnall, S, (ed) *Law-and-Order News: An Analysis of Crime Reporting in the British Press*, reprint (London: Routledge, 2001)

Clarke, SW, 'The Law in Shakespeare' in Andrews, W, (ed), *The Lawyer, in History, Literature and Humour,* (London: William Andrews and Co, 1896)

Cocks, R, *Foundations of the Modern Bar,* (London: Sweet and Maxwell, 1983)

Cohen, H, *A History of the English Bar and Attornatus to 1450,* (repr. NewYork: The Lawbook Exchange 2005)

Cohen, S, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers,* 3rd edn, (London: Routledge, 2002)

Committee on Facilitating Interdisciplinary Research, *Facilitating interdisciplinary research*. (Washington: National Academy Press, 2004)

Conboy, M, *The Press and Popular Culture,* (London: Sage, 2002)

Corfield, PJ, *Power and the Professions in Britain 1750–1850,* (London: Routledge, 1995)

Cornish, WR, and Clark, G de N, *Law and Society in England 1750–1950,* (online version, 1989)

Cosgrove, RA, 'Law' in Don Vann, J, and VanArsdel, RT, *Victorian Periodicals and Victorian Society*, reprint (Toronto: Uni of Toronto Press, 1995)

Council of Legal Education (eds.) *A Century of Law Reform,* (London, Macmillan & Co, 1901)

Crane, D, *Fashion and its Social Agendas: Class, Gender and Identity in Clothing,* (University of Chicago Press 1993)

Crone, R, *Violent Victorians,* (Manchester: MUP, 2012)

Crouzet, F, *The Victorian Economy,* (London: Columbia University Press, 1982)

Cullen, J, *The Art of Democracy: A Concise History of Popular Culture in the United States,* 2nd edition (New York: NYU Press, 2002)

Dahlberg, K, Dahlberg, H, and Nystrom, M, (eds.) *Reflective Lifeworld Research,* 2nd ed. (Lund: Studentlitteratur, 2008)

Davies, T, and Holland, P, (eds.), *The Performing Century: Nineteenth Century Theatre's History,* (Basingstoke: Palgrave Macmillan, 2007)

De Forest, L, *Television: Today and Tomorrow,* (New York: Dial Press, 1942)

Dennis, R, *English Industrial Cities of the Nineteenth century: A Social Geography* (Cambridge: CUP, 1984)

Don Vann, J, and VanArsdel, RT, *Victorian Periodicals and Victorian Society,* (Toronto: U of Toronto P, rep. 1995)

Donald, D, *The Age of Caricature: Satirical Prints in the Reign of George III,* (London: YUP, 1996)

Dolin, K, *A Critical Introduction to Law and Literature*, reissue (ed) (Cambridge, CUP 2011)

Dolin, K, *Fiction and the Law: Legal Discourse in Victorian and Modernist Literature,* (Cambridge: CUP, 1999)

Douzinas, C, 'A Legal Phenomenology of Images' in Ben-Dor, O, *Law and Art: Justice Ethics and Aesthetics,* (London: Routledge, 2011)

Duman, D, *The English and Colonial Bars in the Nineteenth Century,* (London: Croom Helm, 1983)

Dyos, HHJ, and Wolff, M, (eds) *The Victorian City: Images and Realities, Vol. 1,* (London: Routledge, 1999)

Eco, U, *A Theory of Semiotics,* (London: Macmillan, 1976)

Edwards, ASG, *A Companion to Middle English Prose*, (Trowbridge: DS Brewer, 2004)

Eliot, S, 'Books and their Readers – Part 1' in da Sousa Correa, D, *The Victorian Novel,* (London: Routledge, 2000)

Fairclough, N, *Media Discourse,* (London: Edward Arnold, 1995)

Fieldhouse, DK, *The Colonial Empires*, 2nd Edition, (London: Macmillan, 1982)

Fiske, J, *Television Culture,* (London: Routledge, 1987)

Fletcher, RJ, *The Pension Book of Gray's Inn (Records of the Honourable Society) 1569–1800,* (London: Chiswick Press, 1910)

Foucault, M, *Discipline and Punish: The Birth of the Prison,* (London: Vintage Books, 1977)

Fowler, DB, *The Practice of the Court of Exchequer: Upon Proceedings in Equity,* Vol. 1 (London: J Butterworth, 1817)

Freeman, MDA, *Law and Popular Culture,* (Oxford: OUP, 2005)

Galanter, M, *Lowering the Bar: Lawyer Jokes and Legal Culture,* (Wisconsin: University of Wisconsin Press, 2005)

Gatrell, VC, *The Hanging Tree,* (Oxford: OUP, 1996)

Gladfelder, H, *Criminality and Narrative in Eighteenth-Century England: Beyond the Law,* (Baltimore, MD: Johns Hopkins University Press, 2001) 2-4

Glover, W, *Lord Brougham's Law Reforms, etc.* (London: J Ridgway & Sons, 1834)

Golby, D, *Instrumental Teaching in Nineteenth Century Britain,* (London: Routledge, 2016)

Goldman, L, *Science, Reform and Politics in Victorian Britain,* (Cambridge: CUP, 2004)

Gramsci, A, 'Hegemony, Intellectuals and the State' in Storey, J, *Cultural Theory and Popular Culture,* 3rd edition (London: Pearson, 2006)

Grant, A, *The American Civil War and the British Press,* (Jefferson: McFarland & Co, 2000)

Grant, J, *The Newspaper Press: Its Origins, Progress and Present Position*, *Vol. I, II and III,* (London: Tinsley Brothers, 1871)

Griffin, E, *England's Revelry: A History of Popular Sports and Pastimes, 1660–1830,* (Oxford: OUP, 2005)

Harris, M, and Lee, A, *The Press in English Society from the Seventeenth and Nineteenth Centuries,* (Cranbury: Associated University Presses, 1986)

Haskell, F, *History and its Images: Art and the Interpretation of the Past,* (London: Yale UP, 1993)

Hill, J, and Schwartz, V, (eds), *Getting the Picture: The Visual Culture of the News,* (London: Bloomsbury 2015)

Hill, M, *The State, Administration and the Individual,* (London: Fortana/Collins, 1976)

Hobsbawm, E, *Industry and Empire: From 1750 to the Present Day*, 2nd edition, (London: Penguin, 1999)

Hobsbawm, E, *The Age of Revolution,* repr. (London: Abacus, 2002)

Hobsbawm, E, *The Age of Capital,* repr. (London: Abacus, 2002)

Hodge, R, and Kress, G, *Social Semiotics,* (Cambridge: Polity, 1988)

Horn, P, *Amusing the Victorians: Leisure, Pleasure and Play in Victorian Britain,* (Stroud: Amberley, 2014)

Houghton, WE, 'Periodical Literature and the Articulate Class' in Shattock, J, and Wolff, M, (eds) *The Victorian Periodical Press: Samplings and Soundings,* (Leicester: Leicester UP, 1982)

Howells, R, and Negreiros, J, *Visual Culture*, 2nd edition, (Cambridge: Polity Press, 2012)

Hudson, J, *Land, Law, and Lordship in Anglo-Norman England,* (Oxford: OUP, 2004)

Hunt, T, *Defining John Bull: Political Caricature and National Identity in Late Georgian England,* (Aldershot: Ashgate, 2003)

Jackson, L, *Dirty Old London: The Victorian Fight Against Filth,* (New Haven: Yale University Press) 1-2

Jarvis, RM, and Joseph, PR, (eds) *Prime Time Law: Fictional Television as Legal Narrative,* (Durham, North Carolina Press, 1998)

Jones, A, *The Power of the Press: Newspapers, Power and the Public in the Nineteenth Century,* (London: Scolar Press, 1996)

Karloff, B, *Murder and Moral Decay in Victorian Popular Literature,* (Michigan: UMI Research Press, 1986)

King, A, and Plunkett, J, *Popular Print Media, Vol. 1,* (London: Routledge, 2004),

King, A, and Plunkett, J, *Victorian Print Media: A Reader,* (Oxford: OUP, 2005)

Knelman, J, *Twisting in the Wind: Murderess and the English Press,* (Toronto: University of Toronto Press, 1998)

Kress, G, and Van Leeuwen, T, *Reading Images: The Grammar of Visual Design,* (Routledge 1996)

Krippendorff, K, *Content Analysis: An Introduction to its Methodology,* (Thousand Oaks: SAGE Publications, 2012)

Landes, DS, *The Unbound Prometheus: Technological Change and Industrial Development in Western Europe from 1750 to the Present,* (London: CUP, 1969)

Langdridge, D, *Phenomenological Psychology: Theory, Research and Method,* (Harlow: Pearson Prentice Hall, 2007)

Larsen, M, *The Making and Shaping of the Victorian Teacher: A Comparative New Cultural History,* (London: Palgrave Macmillan, 2011)

Lee, AW, 'Who's Mentoring Whom?' in Lee, AW, (ed.) *Mentoring in Eighteenth Century British Literature and Culture,* (London: Routledge, 2016)

Lemmings, D, *Gentlemen and Barristers: The Inns of Court and the English Bar 1680–1730,* (Oxford: Clarendon Press, 1990)

——, *Professors of the Law. Barristers and English Legal Culture in the Eighteenth Century,* (Oxford: OUP, 2000)

Lévi-Strauss, C, *Structural Anthropology*, trans. Jacobson, C, & Grundfest Schoepf, G, (Harmondsworth: Penguin, 1972)

Linebaugh, P, *The London Hanged: Crime and Civil Society in the Eighteenth Century,* (Cambridge: CUP, 1992)

MacDonagh, O, *Early Victorian Government 1830–1870,* (London: Weidenfeld and Nicolson, 1977)

MacNeil, WP, *Lex Populi: The Jurisprudence of Popular Culture,* (New York: Stanford UP, 2009)

Maidment, BE, *Reading Popular Prints 179-1870,* (2nd ed, Manchester: MUP, 2001)

Manchester, AH, *A Modern Legal History of England and Wales,* (London: Butterworths, 1980)

Mangham, A, *Violent Women and Sensation Fiction: Crime, Medicine and Victorian Popular Culture,* (Basingstoke: Palgrave Macmillan, 2007)

Martin, H, *Britain in the Nineteenth Century,* (Cheltenham: Nelson Thomas, 1996)

Martin, R, *Women, Murder, and Equity in Early Modern England,* (Abingdon: Routledge, 2008)

Mathias, P, *The First Industrial Nation*, 3rd edition, (London: Routledge, 2001)

Maunder, A, and Moore, G, *Victorian Crime, Madness and Sensation,* (Aldershot: Ashgate, 2004)

May, AN, *The Bar and the Old Bailey, 1750-1850,* (London: University of North Carolina Press 2003)

McCracken, S, *Pulp: Reading Popular Fiction,* (Manchester: Manchester University Press, 1998)

McNamara, MJ, *From Tavern to Courthouse: Architecture and Ritual in American Law, 1658-1860,* (Baltimore: John Hopkins University Press, 2004)

Miller, T, 'Cinema studies doesn't matter; or, I know what you did last semester' in Tinkcom, M, and Villarejo, A, (eds), *Keyframes: Popular Culture and Cultural Studies,* (London: Routledge, 2001)

Mainardi, P, *Another World: Nineteenth Century Illustrated Print Culture,* (London: YUP 2017)

Mirzoeff, N, (ed) *An Introduction to Visual Culture,* (London: Routledge, 1999)

——, (ed) *The Visual Culture Reader*, 2nd edition, (London: Routledge, 2002)

Mitch, DF, *The Rise of Popular Literacy in Victorian England: The Influence of Private Choice and Public Policy,* (Philadelphia: University of Pennsylvania Press, 1992)

Moran, L, 'Legal Studies after the Cultural Turn: A Case Study of Judicial Research' in Roseneil S, and Frosh, S, (eds.) *Social Research after the Cultural Turn,* (Basingstoke: Palgrave Macmillan, 2012)

——, ‘Cartes de visite as the first mass media photographic images of the English judiciary: Continuity and Change’ in Gregory, J, Grey, DJR, and Bautz, A, (eds.) *Judgement in the Victorian Age,* (London: Routledge, 2019)

Mukerji, C, and Schudson, M, *Rethinking Popular Culture,* (Los Angeles: University of California Press, 1991)

Mulchay, L, ‘Back to the Future? The Challenge of the Past for the Courthouses of Tomorrow’ in Simon, J, Temple, N, and Tobe, R, (eds) *Architecture and Justice,* (London: Routledge, 2013)

Mussell, J, *The Nineteenth century Press in the Digital Age,* (Basingstoke: Palgrave Macmillan, 2012)

Musson, A, ‘Visual Sources: Mirror of Justice or 'Through a Glass Darkly’?’ in Musson, A, and Stebbings, C, (eds.) *Making Legal History: Approaches and Methodologies,* (Cambridge: CUP, 2012)

Musson, A, ‘Seeing Justice: The Visual Culture of the Law and Lawyers’ in Speer, A, and Guldentops, G, *Das Gesetz - The Law - La Loi*, (De Gruyter 2014)

Nancy, J, *The Ground of the Image*, trans Fort, J, (New York: Fordham UP, 2005)

Nevins, FM, ‘When Celluloid Lawyers Started to Speak: Exploring Juriscinema’s First Golden Age’ in Freeman, MDA, (ed) *Law and Popular Culture,* (Oxford: OUP, 2005), 109

Nunn, J, *Fashion in Costume, 1200-2000*, 2nd ed, (Chicago: A & C Black (Publishers) Ltd, 2000)

O’Callaghan, M, ‘Publication: Print or Manuscript?’ in Hattaway, M, (ed), *A Companion to English Renaissance Literature and Culture,* (Oxford: Blackwell Publishing, 2003)

O’Day, R, *The Professions in Early Modern England,* (Harlow: Longman, 2000)

O’Gorman, F, ‘Introduction’ in O’Gorman, F, (ed.) *The Cambridge Companion to Victorian Culture* (Cambridge: Cambridge University Press, 2010)

Palmer, RC, *Selling the Church: The English Parish in Law, Commerce, and Religion, 1350-1550,* (Chapel Hill: University of North Carolina Press, 2002)

Parolin, C, *Radical Spaces: Venues of Popular Politics in London 1790-1845* (Canberra: ANU E Press 2010)

Pearsall, D, *The Canterbury Tales* (London: G. Allen & Unwin, 1985)

Peirce, CS, *Collected Writings (8 Vols.)* Ed. Hartshorne, C, Weiss, P, & Burks, AW, (Cambridge, MA: Harvard University Press, 1931-1958)

Pelling, H, *Popular Politics and Society in Late Victorian Britain*, 2nd edition, (London: Macmillan, 1979)

Perkin, H, *The Origins of Modern English Society 1780–1881*, 2nd edition, (London: Routledge, 2002)

Perron, P, *Narratology and Text,* (Toronto: Uni of Toronto Press, 2003)

Peterson, MJ, *The Medical Profession in Mid-Victorian London* (London: University of California Press 1978)

Polden, P, 'The Education of Lawyers' in Cornish, W, Anderson, JS, Cocks, R, Lobban, M, Polden, P, and Smith, K, *The Oxford History of the Laws of England: Volume XI: 1820–1914 English Legal System*, (Oxford: Oxford University Press 2010)

Posner, RA, *Law and Literature*, 3rd edition, (Boston: Harvard UP, 2009)

Potter, R, *English Morality Plays: Origins, History and Influence of a Dramatic Tradition,* (London: Routledge, 1975)

Prest, WR, *The Inns of Court under Elizabeth I and the Early Stuarts: 1590–1640,* (London: Longman, 1972)

——, *The Rise of the Barristers: A Social History of the English Bar 1590–1640,* (Oxford: OUP, 1986)

——, 'Lawyers' in R O'Day, *The Professions in Early Modern England,* (London: Croom Helm, 1987)

Pue, WW, and Sugarman, D, (eds) *Lawyers & Vampires: Cultural Histories of Legal Professions,* (Oxford: Hart Publishing, 2003)

Pugh, M, *The Making of Modern British Politics 1867–1939*, 3rd edition, (London: Wiley-Blackwell, 2002)

Robbins, M, *The Railway Age,* (London: Penguin, 1965)

Robbins, R, and Wolfreys, J, (eds), *Victorian Gothic: Literary and Cultural Manifestations in the Nineteenth Century,* (Basingstoke: Palgrave 2000)

Roberts, D, *Victorian Origins of the British Welfare State*, reprint of Yale University Press 1960, (Hamden CT: Archon Books, 1969)

Roger, R, *Housing in Urban Britain 1780-1914,* (Cambridge: CUP, 1995)

Rogoff, I, 'Studying Visual Culture' in Mirzoeff, N, (ed) *The Visual Culture Reader*, 2nd edition, (London: Routledge, 2002)

Rolt, LTC, *Victorian Engineering,* (London: Penguin, 1970)

Rosenberg, CB, 'Foreword' in Jarvis, RM, and Joseph, RP, (eds) *Prime Time Law: Fictional Television as Legal Narrative,* (Durham, Carolina Academic Press, 1998)

Rosewell, R, *Medieval Wall Paintings in English and Welsh Churches,* (Woodbridge: Boydell Press, 2008)

Rosewell, R, *Medieval Wall Paintings,* (Oxford: Shire Publications, 2014)

Rosewell, R, *Stained Glass,* (Oxford: Shire Publications, 2012)

Rowbotham, J, and Stevenson, K, (eds) *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage,* (Columbus: Ohio State University Press, 2005)

——, *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels,* (Aldershot: Ashgate, 2003)

Rowbotham, J, Stevenson, K, and Pegg, S, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820–2010,* (London: Palgrave Macmillan, 2013)

Rubin, GR, and Sugarman, D, (eds.), *Law, Economy and Society, 1750-1914: Essays in the History of English Law,* (Abingdon: Professional Books Ltd, 1984)

Rummonds, R-G, *Nineteenth Century Printing Practices and the Iron Handpress,* (Oak Knoll Press: London, 2004)

Saussure, F de, *Course in General Linguistics,* 3rd edition. (New York: McGraw-Hill 1967)

Schacker, J, *National Dreams: The Remaking of Fairy Tales in Nineteenth Century England,* (Philadelphia: University of Pennsylvania Press, 2003)

Searle, GR, *Morality and the Market in Victorian Britain,* (Oxford: Clarendon Press, 1998)

Seipp, DJ, 'The Structure of English Common Law in the Seventeenth Century' in Gordon, WM, and Fergus, TD, *Legal History in the Making* (London: Hambledon Press, 1991)

Seutter, J, *Let Justice be Done,* (Hamburg: Anchor Academic Publishing, 2015)

Shattock, J, and Wolff, M, (eds) *The Victorian Periodical Press: Samplings and Soundings,* (Leicester: Leicester UP, 1982)

Sherwin, RK, *When Law Goes Pop,* (Chicago: University of Chicago Press, 2002)

Shuker, R, *Understanding Popular Music*, 3rd edition, (London: Routledge, 1984)

Sindall, R, *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* (Leicester: Leicester University Press, 1990)

Smith, EA, *A History of the Press,* (London: Ginn and Company, 1970)

Smith, P, and Lefley, C, *Rethinking Photography: Histories, Theories and Education,* (London: Routledge 2015)

Spielman, M, *The History of Punch,* (London: Cassell, 1895)

Stadler, J, and McWilliam, K, *Screen media: analysing film and television*, (Sydney: Allen and Unwin, 2008)

Stamm, K, *Newspaper Use and Community Ties: Toward a Dynamic Theory,* (New York: Ablex Publishing, 1985)

Stebbings, C, *Legal Foundations of Tribunals in Nineteenth century England,* (Cambridge: CUP, 2006)

——, 'Officialism: Law, Bureaucracy and Ideology in Later Victorian England' in Lewis, A, and Lobban, M, (eds) *Law and History,* vol.6 (Oxford: OUP, 2004)

——, *The Private Trustee in Victorian England,* (Cambridge: CUP, 2002)

Storey, J, *Cultural Theory and Popular Culture: An Introduction*, 4th edition, (London: Pearson, 2006)

——, *Cultural Theory and Popular Culture: A Reader*, 4th edition, (London: Pearson, 2006)

Strinati, D, *An Introduction to Theories of Popular Culture,* 2nd edition (London: Routledge 2002)

Sugarman, D, *A Brief History of the Law Society,* (London: Law Society, 1995)

Sugarman, D, 'Making Respected Gentlemen out of Law Professors. A Commentary on Albert Venn Dicey, Can English Law Be Taught at the Universities (1883)'. I Löhr, M Middell, H Siegrist, (eds.), Kultur und Beruf in Europa (Stuttgart: Franz Steiner Verlag, 2012)

Swisher, C, *Victorian England*, (Michigan: Greenhaven Press, 2000)

Taylor, AJ, *Laissez-faire and State Intervention in Nineteenth century Britain,* (London: Macmillan, 1972)

Taylor, F, *The Newspaper Press as a Power Both in the Expression and Formation of Public Opinion,* (Oxford: BH Blackwell, 1898)

Thompson, EP, *The Making of the English Working Class,* (London: Vintage, 1966)

Thompson, WH, 'Chaucer's Man of Law' in Andrews, W, (ed), *The Lawyer, in History, Literature and Humour,* (London: William Andrews and Co, 1896)

Trevelyan, GM, *Illustrated English Social History: 4,* (London: Pelican, 1972)

Truffaut, F, *Hitchcock/Truffaut,* (New York, Simon & Schuster: 1983)

Turner, G, *British Cultural Studies: An Introduction,* 2nd edition (London: Routledge, 1996)

Vincent, D, *Literacy and Popular Culture: England 1750–1914*, (Cambridge: CUP, 1993)

Ward, I, *Law and Literature: Possibilities and Perspectives,* (Cambridge: CUP, 1995)

The Waterloo Directory of English Newspapers and Periodicals 1800–1900, (Online Edition)

Webb, S, *Execution: A History of Capital Punishment in Britain,* (Stroud: The History Press, 2011)

Weiner, JH, 'Introduction' in JH Weiner (ed.) *Papers for the Millions: The New Journalism in Britain 1850s to 1914,* (Westport: Greenwood Press, 1988)

Weiner, JH, 'How New was the New Journalism?' in JH Weiner (ed.) *Papers for the Millions: The New Journalism in Britain 1850s-1914,* (Westport: Greenwood Press, 1988)

Wigley, EA, *Continuity, Chance and Change: The Character of the Industrial Revolution in England,* (Cambridge, 1990)

Williams C, (ed) *A Companion to Nineteenth century Britain,* (London: Blackwell, 2004)

Williams, K, *Read All About It!: A History of the British Newspaper,* (London: Routledge, 2010)

Williams, M, *Empty Justice: One Hundred Years of Law, Literature and Philosophy* (London: Cavendish, 2001)

Williams, R, *Culture and Society 1780–1950,* (London: Penguin, 1961).

Williams, R, *Culture and Society,* (Harmondsworth: Penguin, 1963).

Williams, R, *Keywords: A Vocabulary of Culture and Society* (New York: OUP, 1985)

Williamson, JB, *Middle Temple Bench Book,* (London: Chancery Lane Press, 1937)

Wolfenstein, M, and Leites, N, *Movies: A Psychological History,* (Glencoe: The Free Press, 1950)

Wraith, RE, and Hutchesson, PG, *Administrative Tribunals,* (London: George Allen & Unwin Ltd, 1973)

Youngson, AJ, *The Scientific Revolution in Victorian Medicine* (New York: Holmes and Meier 1979)

Lectures

Wolff, M, 'Urbanity and Journalism: The Victorian Connection' *HJ Dyos Memorial Lecture,* 29 May 1979

Websites

'About Us' *iclr.co.uk,* <http://www.iclr.co.uk/news-events/about-us/> accessed 18 Jul 2016

Allen, CJW, 'Kelly, Sir Fitzroy Edward (1796–1880)', (Oxford Dictionary of National Biography) <http://www.oxforddnb.com/view/article/15295> accessed 8 April 2014

'American Bar Association: Model Rules of Professional Conduct' (American Bar Association Online Handbook) <http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html> accessed 8 April 2014

'An Inquiry into the Culture, Practices and Ethics of the Press: Report' official-documents.gov.uk <http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.officialdocuments.gov.uk/document/hc1213/hc07/0780/0780.asp> accessed 3 Nov 2014

Archbold, WAJ, 'Kennedy, Charles Rann (1808–1867)', rev. E Metcalfe, (Oxford Dictionary of National Biography) <http://www.oxforddnb.com/index/101015364/Charles-Kennedy> accessed 8 April 2014

'Bar Code of Conduct' (The Bar Standards Board Handbook) <https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/> accessed 8 April 2014

Bedlow, D, 'From Zero to Hero' (News article in The Law Gazette) <http://www.lawgazette.co.uk/2064.article> accessed 8 April 2014

Biron, C, 'Hall, Sir Edward Marshall (1858–1927)', rev Mike Clarke, (Oxford Dictionary of National Biography) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/33651> accessed 8 April 2014

Boase, GC, 'James, Edwin John (1812–1882)', rev. Eric Metcalfe, (Oxford Dictionary of National Biography) <http://www.oxforddnb.com/view/article/14599> accessed 8 April 2014

Cairns, DJA, 'Phillips, Charles (1786/7?–1859)', (Oxford Dictionary of National Biography) <http://www.oxforddnb.com/view/article/22147> accessed 8 April 2014

Dunlop, CRB, 'Warren, Samuel (1807–1877)', (Oxford Dictionary of National Biography) <http://www.oxforddnb.com/view/article/28792> accessed 8 April 2014

Hamilton, JA, 'Kenealy, Edward Vaughan Hyde (1819–1880)' rev. R McWilliam (Oxford Dictionary of National Biography) <http://www.oxforddnb.com/view/article/15356> accessed 8 April 2014

Hughes, K, 'Gender Roles in the 19th Century' *bl.uk* <https://www.bl.uk/romantics-and-victorians/articles/gender-roles-in-the-19th-century> accessed 8 Jan 2016

'Inner Temple Archives' (Information Website) <http://www.innertemple.org.uk/index.php?option=com_content&view=article&id=130&itemid=128> accessed 8 April 2014

Khan, Z, 'An Economic History of Copyright in Europe and the United States' in Whaples, R, (ed.) *EH.Net Encyclopaedia,* (2008) <http://eh.net/encyclopedia/an-economic-history-of-copyright-in-europe-and-the-united-states/> accessed 2 Dec 2015

Lobban, M, 'Cockburn, Sir Alexander James Edmund, twelfth baronet (1802–1880)', (Oxford Dictionary of National Biography) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/5765> accessed 8 April 2014

Macnaghten, MM, 'Clarke, Sir Edward George (1841–1931)', rev. HCG Matthew, (Oxford Dictionary of National Biography) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/32426> accessed 8 April 2014

Mathew, JC, 'Russell, Charles Arthur, Baron Russell of Killowen (1832–1900)', rev. Sinéad Agnew, (Oxford Dictionary of National Biography) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/24301> accessed 8 April 2014

Miller, T, 'Screen Texts – A Polemic' (2002) 1 *Politics and Culture,* <http://politicsandculture.org/2010/08/10/screen-texts-a-polemic-toby-miller-2/> accessed 26 Oct 2014

Pugsley, D, 'Coleridge, John Duke, first Baron Coleridge (1820–1894)', (Oxford Dictionary of National Biography) <http://0–www.oxforddnb.com.lib.exeter.ac.uk/view/article/5886> accessed 8 April 2014

Ruskin, J, 'Of the Pathetic Fallacy' (Essay in *Modern Painters,* vol. iii, pt. 4, 1856) <http://www.ourcivilisation.com/smartboard/shop/ruskinj/> accessed 8 April 2014

Stanford Encyclopaedia of Psychology (Definition of Social Institutions) <http://plato.stanford.edu/entries/social-institutions/> accessed 8 April 2014

'The Trial of the Tichborne Claimant' (Non-Academic Article on Hampshire County Council Website) <http://www3.hants.gov.uk/community-history/-claimant.htm> accessed 8 April 2014

Thibault, M, and Walbert, D, 'Reading Images: An Introduction to Visual Literacy' learnnc.org <http://www.learnnc.org/lp/pages/675> accessed 28 Oct 2014

Unknown, *The Language of the Hand Fan,* allhandfans.com <http://www.allhandfans.com/handfans/levels/language_of_the_fan.htm> accessed 15 Feb 2015